LEGISLATIVE COUNCIL

Wednesday 10 April 1996

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

ASSENT TO BILLS

Her Excellency the Governor, by message, intimated her assent to the following Bills:

Biological Control (Miscellaneous) Amendment,

Births, Deaths and Marriages Registration,

Fisheries (Gulf St Vincent Prawn Fishery Rationalisation) (Licence Transfer) Amendment,

Law of Property (Perpetuities and Accumulations) Amendment,

Liquor Licensing (Disciplinary Action) Amendment,

Pastoral Land Management and Conservation (Board Membership) Amendment,

Racing (TAB) Amendment.

QUESTION ON NOTICE

The PRESIDENT: I direct that the written answer to question No. 64 be distributed and printed in *Hansard*.

SCHOOL CARD

64. **The Hon. CAROLYN PICKLES:**

1. Prior to removal of the automatic school card status for disabled students, how many disabled students received school card benefits?

2. How many disabled students have ceased to be eligible for school card after the removal of automatic approval, and what are the financial consequences for the Government of the reduction in the number of disabled people receiving school card?

The Hon. R.I. LUCAS: Prior to 1995 disabled students automatically received school card. As from 1995, eligibility for school card for these students is now subject to the parent/caregiver meeting the criteria.

In 1994 there were 5 653 disabled students receiving school card. In 1995 there were 6 020 disabled students receiving school card.

No reduction has occurred from 1994.

PAPERS TABLED

The following papers were laid on the table:

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

Animal and Plant Control Commission—Report, 1995

Regulations under the following Acts—

Fisheries Act 1982—

Commercial Net Fishing Controls

Recreational Net Fishing

Classification (Publications, Films and Computer Games) Act 1995—Intergovernmental Agreement

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

Regulations under the following Acts—

Environment Protection Act 1993—

Burning Policy

Prescribed Fees

Road Traffic Act 1961—Voluntary Blood Test

Summary Offences Act 1953—Drink Driving—

Qualified Passenger

Architects Act 1939-1987—By-laws—Fees.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. CAROLINE SCHAEFER brought up the report of the committee on Roxby Downs water leakage.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON brought up the discussion paper of the committee on a code of conduct for members of Parliament.

BAIL

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to table a ministerial statement from the Minister for Family and Community Services on the Bail Act.

Leave granted.

QUESTION TIME

SCHOOL SERVICES OFFICERS

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about SSO cuts.

Leave granted.

The Hon. CAROLYN PICKLES: A circular from the Secondary Principals Association to its members states that following the reduction of SSOs remaining support staff have untenable workloads. The circular states in part:

> Most secondary schools have lost between 20 and 80 hours of ancillary staff time since the end of 1995. The effect of these cuts has meant that many management methods and functions in schools have been changed or forced to be dropped in order to cope with fewer staff. Schools have been forced to increase student fees to buy back essential services.

The circular states that at the same time the cuts have been implemented there has been no improvement to the SSO award structures and that expectations within the placement exercise have remained inflexible and unsupportive of school needs. The Principals Association says that time-consuming and difficult communication with the placement unit continues to thwart principals' efforts to achieve sensible and efficient replacements and appointments of SSOs. My questions to the Minister are:

1. What advice has the Minister given to schools on how cuts to SSOs should be implemented, and how are they being monitored?

2. What action is the Minister taking to address the industrial issues that have been created by these cuts?

3. Will the Minister immediately investigate the complaint about placements?

The Hon. R.I. LUCAS: I have seen the memorandum or letter to which the honourable member refers. As I have indicated on countless other occasions in this Chamber, I understand the concerns of secondary principals—and principals generally—teachers and parents about the difficult decisions the Government took in relation to the reduction of school service officer numbers. Again, I remind the Leader of the Opposition that, even with the reductions, schools in South Australia will still have almost 10 per cent more school service officers than the national average for all States. Schools in other States have not ground to a halt, yet we will have almost 10 per cent more school support staff whilst at the same time having the lowest average class sizes of any State in the Australia.

Whilst I understand the views that are being expressed by the opponents of the Government decision, I indicate that they do not indicate in their correspondence or in their public

discussion these other factors that I as Minister obviously have to continue to repeat. Yes, I understand the concerns; yes, I understand that the secondary principals are still opposed to the reductions; yes, I understand the principals are continuing to express concern to me as Minister, to the Parliament, and to others within the department.

Officers within the department are working with principals in relation to the restructuring and redesigning of school services officer positions. That continues to be a subject of some discussion with representative principals' associations. Should they require it, we will continue those discussions.

I must admit that there is one aspect of the memo that needs to be further clarified, that is, the claim—although I do not have the letter with me and am going on memory—that there has been no award restructuring of school services officer positions. I must say that the last Government embarked upon an award restructuring process for all school services officers and, whilst it took three or four years to complete and whilst, instead of being revenue neutral, it is actually costing the taxpayers and the education budget some additional $3 million to $4 million a year, it is not correct to say that there has not been a very significant award restructuring arrangement for our school services officers within schools.

It has been done: it is costing taxpayers an extra $3 million to $4 million a year because, contrary to the claims made by the unions at the time to the previous Labor Government and contrary to the control processes that were initiated by the previous Labor Government, we found literally hundreds of school services officers, through award reclassification, winning significant pay increases by moving up the various categories in the new award reclassification. Therefore, it is not correct to say that there has not been award restructuring or reclassification for school services officers: it has been done and we, the taxpayers of South Australia, are paying $3 million to $4 million a year for it.

I understand that the specific issue of placement is being considered by the department at the moment. I am not aware of the detail of what Terry Woolley (on behalf of the Secondary Principals Association) is raising there. I have asked for a response and, when I have that, I will be happy to share it with the Leader of the Opposition.

INDOCHINESE AUSTRALIAN WOMENS ASSOCIATION

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Minister for Education and Children's Services—unless, under Standing Order 107, the Hon. Julian Stefani chooses to answer, as the question relates to a public matter connected with the business of the Council, with which the Hon. Mr Stefani is especially concerned—a question about the Indochinese Australian Women's Association (ICHAWA).

Leave granted.

The Hon. R.R. ROBERTS: Last Wednesday I asked a series of questions of the Minister of Education in relation to the role of the Hon. Julian Stefani in the affairs of the Indochinese Australian Women's Association. In his reply the Minister claimed that the matters I raised in my question in relation to allegations of misuse of moneys within ICHAWA were not related to letters written late last year by nine different women to the Premier and to members of Parliament complaining of the Hon. Mr Julian Stefani's behaviour. In fact, the Minister said last Wednesday, and I quote from the *Hansard* as follows:

> Certainly, my recollection of statements read to this Chamber either late last year or earlier this year related to the incidents at the annual general meeting. Certainly, the explanation by the author of the question that the Deputy Leader read in this Chamber purports to indicate a completely different construction on those earlier statements, that is, that those statements related to allegations about misappropriations and a range of other things like that.

It saddens me to have to report to the Council that the honourable Minister's recollection is indeed faulty. In a letter to the Premier dated 12 November 1995 and subsequently tabled in this place on Wednesday 15 November by the Minister for the Status of Women (Hon. Diana Laidlaw), four employees and former employees of ICHAWA outlined their concerns about events at ICHAWA and the role played by the Hon. Mr Stefani. Their concerns related not only to Mr Stefani's role at the annual general meeting but also to his role at meetings held prior to the AGM at which financial matters were discussed. The letter in part states:

> The staff of the Indochinese Australian Women's Association (ICHAWA) have been through very difficult times for trying to raise a number of genuine issues of great concern regarding the handling of financial matters at ICHAWA.
>
> Over a period of almost two years now, several meetings related to the above issue have taken place between the Executive Council and staff with the sudden appearance of Mr Julian Stefani at one of them.

The letter continues:

> Mr Stefani listened to what the staff had to say, asked a number of questions and then, in a conspicuously intimidating manner, gave a 45 minute lecture on defamation. With a fixed stare at each staff member in turn, he concluded this meeting by stating that those who were not careful about what they said pay dearly under Australian law.

In conclusion, the letter states:

> The meeting resulted in extreme anxiety and many sleepless nights for the staff. On the one hand, being people with personal and professional integrity, we could not ignore any longer the absence of any guidelines for proper control of financial operations of ICHAWA, and on the other hand we became acutely aware of our powerlessness and insignificance compared with the forces apparently arrayed against us.
>
> Our fears were confirmed when two more private meetings were held with Mr Stefani and two of the staff members individually in the former President's home. Each meeting lasted 2.5 to three hours and defamation was the continual focus of discussion with reference to the damage this would do to the community if the issue was pursued further in this way. The clear message was that we should speak of these concerns no further or we would find ourselves in great trouble.

My questions to the Minister for Education and Children's Services or to the parliamentary secretary to the Premier and Minister for Multicultural and Ethnic Affairs are:

1. In what capacity did the parliamentary secretary attend the meetings with the staff of ICHAWA to discuss the matters pertaining to the organisation's financial affairs, and what knowledge did he have of ICHAWA's financial situation?

2. What advice did the parliamentary secretary give to the staff of the Indochinese Women's Association in relation to the allegations, since proven, of misuse of money within the organisation?

3. Did the parliamentary secretary threaten any member or employee of ICHAWA that the pursuit of their allegations about financial impropriety would lead to defamation proceedings against them and, if he did threaten this, why did he do so?

The PRESIDENT: The Minister for Education and Children's Services—I presume that was whom the question was aimed at.

The Hon. T.G. Cameron: Where's Julian?

The Hon. R.I. LUCAS: The questions were directed to me.

The Hon. T.G. Cameron: No, it was directed to both of you.

The Hon. R.I. LUCAS: No, it wasn't. He said 'or'. The questions have been directed to me. Certainly, I will discuss the issues with the Hon. Mr Stefani and bring back a detailed reply in relation to the issues raised by the honourable member. Certainly, my checking last week of *Hansard* indicates that a vast amount of the information that the Hon. Mr Roberts and others shared about the original questions to me related to the annual general meeting of ICHAWA and, as I said, I responded on the basis of my recollections late last week, or whenever I answered the questions. I am very happy to look at the issues. Again, all I can say, in terms of the role that the Hon. Mr Stefani was adopting in relation to his work with the Indochinese community for many years, is that he has done it as a member of Parliament and as a human being who wants to assist the Indochinese community in South Australia in relation to the many issues and concerns—

The Hon. T.G. Cameron: He was playing politics; that's what he was doing.

The Hon. R.I. LUCAS: The Hon. Mr Cameron has to reduce everything to politics, and that is all right. That can be his own perspective on life, but some people, unlike the Hon. Mr Cameron, are prepared to try to assist a number of community groups. The Hon. Mr Stefani has given hours and hours of service to the Indochinese community, as well as to a number of other community groups and associations, and he will continue to provide that assistance to those community groups that would like that assistance provided to them by the Hon. Mr Stefani as a member of Parliament, as he then was.

ROADSIDE RUBBISH

The Hon. T.G. ROBERTS: I seek leave to give a brief explanation before asking the Minister for Transport a question about roadside rubbish.

Leave granted.

The Hon. T.G. ROBERTS: During the Easter break, I travelled down to the South-East via the Princes Highway and back via the Duke's Highway. On a number of occasions I had to take evasive action, particularly on the narrow Princes Highway, to avoid the remains of truck tyre blowouts that had been left on the side of the road. I think every member in this Chamber has had the unpleasant experience of holding a line on a very narrow road, with a car coming in the opposite direction, only to find the half of a very large tyre on your side of the road.

We have also had occasion to boost ecotourism in this State and many cyclists have had a number of near misses when staying away from the inside of the road, presumably to avoid the same thing. In the South-East we had a fatality, not caused through roadside refuse so far as I can find out, but unfortunately a cyclist was knocked off their bike one evening. I think it is an unnecessary safety hazard that has been left on our highways. My question is: Will the Minister initiate an education campaign, particularly with respect to the trucking industry, to remove any roadside rubbish connected with tyre and tube blowouts? If this is not successful, will the Government consider legislation to make sure that any roadside refuse is taken away by those who create it?

The Hon. DIANA LAIDLAW: I understand the basis of the honourable member's concern, but I think the solutions he proposes are difficult in practical terms because most truck drivers would not appreciate that it is their truck that has caused the difficulties. So often, the rubber that we see left on the side of the road is from retreads, not from the prime mover in which the driver is seated, but from the trailer behind, and they would have no idea that they had left this rubbish, which is an environmental and road safety hazard. I acknowledge the problem. I certainly believe there may be some difficulty in asking the individual truck drivers to take responsibility for the tyre refuse that they may leave behind because I suspect they would be spending most of their time looking in the rear vision mirror and I would want them to look forward.

I certainly undertake to speak to the South Australian Road Transport Association and individual trucking companies to see how we can assess the issue. I will also speak with KESAB. Last year I launched a project, I think a first in Australia, called RoadWatch. It is a joint initiative between the Department of Transport and KESAB to clean up roadside rubbish. We are aiming to get about 120 volunteer groups by the end of either this financial year or the calendar year. We are doing well, in particular, in the outer metropolitan area. I know that Millicent has a very conscientious road safety committee. It may well be that we could also canvass with groups such as that how we deal with this issue. I undertake to explore what avenues are available, because I acknowledge the problem.

ELECTRICITY MARKET

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Minister for Infrastructure, a question about the on-selling of electricity purchased from ETSA.

Leave granted.

The Hon. SANDRA KANCK: I have been informed that residents of the Roxby Downs Caravan Park are currently paying 15¢ per unit of electricity when the domestic retail price charged by ETSA is 11.92¢ for all customers linked to South Australia's electricity grid. Schedule 4 of the Electricity Corporations Act of 1994 provides that it is an offence to charge a premium for the cost of electricity supplied by ETSA, except as approved by the Minister. My questions to the Minister are:

1. If the Minister has not specifically approved the electricity premium charged to Roxby Downs Caravan Park residents, will he investigate the matter?

2. If the Minister has approved the electricity premium being charged to Roxby Downs Caravan Park residents, why has he done so?

3. Is the electricity premium charged in Roxby Downs subject to a debenture agreement between ETSA and another party; if so, does the Minister consider that this agreement delivers fair energy prices to residents of the Roxby Downs Caravan Park?

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

MULTI-MEDIA

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Leader of the Government in the Council a question about multi-media.

Leave granted.

The Hon. L.H. DAVIS: South Australia has recognised the importance of information technology and has given high priority through the IT 2000 policy, which seeks to stimulate private investment and participation in Government outsourcing programs and the strengthening of the State's information technology base. It has also recognised the rapid development of multi-media, and South Australia has a page on the World Wide Web. Yesterday's *Age* newspaper carried a story about Victorian Premier Jeff Kennett's appointment of Treasurer Alan Stockdale as Minister for Multi-media. The *Age* article notes:

> Multi-media has become one of the all-encompassing buzzwords of the cyberspace lexicon, a slippery, meaningless neologism to many, but to the familiar, a potent digital brew of graphics, text, animation, photographs and video.

The Hon. T.G. Cameron interjecting:

The Hon. L.H. DAVIS: I will tell you what that means afterwards, if you would like to know, Mr Cameron. The article continues:

> As its simplest level, it is games or educational programs on CD-ROMs or the Internet's World Wide Web. But in terms of the putative ambitions of the new [Victorian] ministry, it is a brave new wired world in which citizens in rural areas have easy access to medical specialists in the city, where government services are available at 24-hour transaction kiosks and the Government itself is a mouse-click away on the Internet at home or from Internet terminals in public libraries.

This *Age* article notes, quite accurately, that the Leader of this new technology in United States politics is House Speaker Newt Gingrich, who sees on-line communication as a way of enhancing democracy, as the *Age* puts it, 'allowing citizens instant access to government records, parliamentary deliberations and to individual political representatives.' The Victorian Government is now promising greater on-line access to Government and responsiveness by Government. Premier Kennett can be e-mailed, and I understand that Federal politicians can also be e-mailed. My question to the very computer literate Leader of the Government in the Council, the Hon. Robert Lucas (I am sorry, that is an opinion, and I must concede that I am not sure whether it is accurate) is: does the Minister have any comment on the initiatives being undertaken—

Members interjecting:

The PRESIDENT: Order! I ask the honourable member to get on with his question.

The Hon. L.H. DAVIS: I am being diverted by my colleagues, Mr President. Does the Government have any comment on the initiatives being undertaken in Victoria, and will it ensure that Victoria does not gain a break on this State in this important area?

The Hon. R.I. LUCAS: I can assure the honourable member that the aspect of the question which referred to my computer literacy certainly was opinion and not fact. Like some other members, I am on a learning curve, but nevertheless I am working hard to try to get further up the learning curve in terms of access to the variety of programs—

The Hon. L.H. Davis: We're about where Footscray is!

The Hon. R.I. LUCAS: Further than Footscray—and access to many of the attributes and advantages that computers and computer programs can offer not only to Ministers but to the Education Department. If I could be permitted an aside, the Education Department—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Well, Parliaments as well. At the moment the Education Department is wrestling with a five year technology plan in terms of what we need to do within our schools, and in the context of this State budget we hope to be able to make some significant announcements with regard to the future direction for technology and access to technology for our students, the future citizens of South Australia. Obviously that will be a very important part of a computer literate future for South Australia. We have to get our education system right. The Government of the day has to be prepared to work with parents in terms of access to computers and technology.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Well, that's right. During the past 20 years under the previous Government it was left to chook raffles and parents raising the money to purchase computers. What this Government is saying—and certainly this is discussion we are having at the moment in the budget debates—is that we cannot go on for 20 years as the previous Government did saying to parents, 'You have your chook raffles and you be responsible for access to technology by a computer literate citizenry for South Australia in the future.'

Computer literacy and what we do within our school system is only a part of the range of questions that the honourable member has raised. I know the attitude of the Premier, and as the Minister for Information Technology, together with his parliamentary secretary, there is a very bold vision for an IT future for South Australia. I have talked about schools.

The Hon. P. Holloway: He doesn't include the Parliament.

The Hon. R.I. LUCAS: Well, Parliament is an issue. If one wants to be critical of what has been done by Governments in relation to the Parliament, the Hon. Mr Holloway should hang his head in shame because this Government has done more for members in this Chamber and in the other Chamber than the Labor Government did in 20 years.

The Hon. Anne Levy: Bagging our postage, giving us phones instead of e-mail and never asking us which we would like.

The Hon. R.I. LUCAS: I don't mind interjections, but when they are ignorant they ought to be dismissed.

Members interjecting:

The PRESIDENT: Order! The honourable member is using unparliamentary language.

The Hon. T.G. Cameron: You ripped our postage off.

The PRESIDENT: Order!

The Hon. L.H. Davis: You take your stamps and go home.

The Hon. R.I. LUCAS: The high-tech Hon. Mr Cameron is obviously very distressed about his stamps. It really is up to him: if he has a question about stamps he ought to direct them to me, if he wants to, or more particularly direct them to the President.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I can only suggest to the Hon. Mr Cameron that if he wants to compare access to facilities that he has now compared to what members had over the past 10 years then there is no comparison at all.

Members interjecting:

The PRESIDENT: Order! The Hon. Terry Cameron will resume his seat. If he wants to talk, stand up and he will get the call.

The Hon. R.I. LUCAS: The Hon. Mr Cameron obviously is very excited today: I am not sure what it is.

The Hon. Diana Laidlaw: I don't think he had a very good Easter.

The Hon. R.I. LUCAS: He obviously had a bad Easter or something.

The Hon. L.H. Davis: Bad chocolate.

The Hon. R.I. LUCAS: He might have got the ones with the glass in them, or whatever else it was.

Members interjecting:

The Hon. R.I. LUCAS: There is a little bit of activity going on across the Chamber. However, that is not the subject of this question and I will not be diverted about the problems the Labor Party currently confronts and the problems the Deputy Leader currently has.

In relation to multimedia, I should like to take some advice from the Premier and the Office of Information Technology. Although I am not aware of the detail, I am aware that the Government has been undertaking a number of initiatives in the area of multimedia which have involved some funding. I know that my colleague the Hon. Diana Laidlaw has been involved in some discussions, as have the Premier and others. I should like to get that detail to share with the honourable member and others in this Chamber who are interested.

MOTOR VEHICLE REGISTRATION

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport a question about notices issued by the Registrar of Motor Vehicles.

Leave granted.

The Hon. T.G. CAMERON: It has been brought to my attention that some notices and forms issued by the Registrar of Motor Vehicles may contain misleading information. The notices set out penalties for infringements, showing the maximum penalties, for example, six months' gaol, etc. Although that is the maximum penalty, the impression created by the statement on the notice is that the penalty is six months' gaol. My questions are:

1. Will the Minister conduct a review of the Registrar's notices, forms, etc., to ascertain the extent of this problem?

2. Will the Minister review the wording used to examine whether it accurately reflects the penalties set out under the appropriate legislation?

The Hon. DIANA LAIDLAW: Until I have seen the advice that the honourable member has received, I am not confident that there is a problem, and perhaps he can show me copies of the notices that are of concern to him. In the meantime, I will make some inquiries of the Registrar.

HINDMARSH ISLAND BRIDGE

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about the Hindmarsh Island bridge royal commission.

Leave granted.

The Hon. A.J. REDFORD: There has been some publicity of late concerning the Hindmarsh Island bridge and the effect of the decision of the recent royal commission. After the royal commission, the previous Federal Government appointed Justice Jane Mathews, who is Deputy President of the Native Title Tribunal, to investigate claims that the bridge would destroy sacred Aboriginal sites. It would appear that the inquiry established by the previous Federal Government may cover much of the same ground as was covered by the royal commission last year. In the light of this, my questions to the Attorney-General are as follows:

1. Will the Attorney-General approach the Federal Government and ask whether or not it has or intends to obtain a legal opinion on whether the Mathews inquiry can be terminated immediately on the ground that it represents an unnecessary and costly duplication of the royal commission?

2. Will the Attorney-General make inquiries as to the nature and extent of the intimidation and/or retribution, either threatened or taken out, against the persons, both Ngarrindjeri and non-Ngarrindjeri, who played a role in exposing the fabrication before the commission?

3. Will the Attorney-General call upon the Federal Minister to state that any inquiry by Justice Mathews, should it proceed, will have to provide a convincing explanation of why, until 1994, there was no indication in the extensive literature about the Ngarrindjeri secret women's business or of the extreme significance and sacred status of the lower reaches of the Murray River and surrounds?

4. Will the Attorney-General ask the Federal Minister to call on the Justice Mathews inquiry to ensure that it requires the proponents to provide well founded and non-evasive explanations of the many contradictions and inconsistencies that were identified in the royal commission report or which surfaced during the royal commission hearings?

5. Will the Attorney-General make inquiries of the Minister for Aboriginal Affairs (Dr Armitage) as to whether or not he is prepared to release Dr Neil Draper's report of April 1994 to him concerning the issues at Hindmarsh Island, which report was suppressed pursuant to section 35 of our Aboriginal Heritage Act and, if not, why not?

6. Will the Attorney-General approach the Commonwealth Government with a view to encouraging informed and constructive debate on how to avoid a repetition of the Hindmarsh Island bridge fiasco?

The Hon. K.T. GRIFFIN: A number of those questions will need to be considered, and I will undertake to have that done and bring back a considered reply in due course. A few days ago I noticed a press report that an application was being made to the High Court to challenge the validity of the appointment of Justice Mathews. As I understand it, that application was made by Mr Abbott, QC. I am not sure what the outcome of that will be, but one really needs to wait until the High Court argument is made and decisions delivered.

The issue involves a question under the Federal Constitution as to whether or not the judge is exercising judicial power of the Commonwealth or whether her appointment as reporter to the Federal Minister for Aboriginal Affairs is an appointment made to her personally rather than in her capacity as a judge of the court. Under the Federal Constitution, there is a real and important issue about who may exercise judicial power of the Commonwealth. It does not apply to the State judicial system, because we do not have the same issue of separation of powers that is specifically referred to in the Federal Constitution. In terms of an approach to the Federal Minister about a legal opinion, I have certainly not made that approach, and it may be improper to make that approach now that the matter has been taken to the High Court. However, I will consider that particular issue.

In relation to the issue of allegations of intimidation against those persons who were prepared to stand up and argue that the so-called secret women's business was false, I have certainly seen such reports, both publicly and otherwise. The difficulty is that I do not think there is any clear evidence of that, although the assertions have been made. Concern was expressed about it at one stage during the course of the royal commission, but I understand that the Royal Commissioner herself took the matter in hand and dealt with it at an informal level. If there is evidence of intimidation, I have said previously that that is a matter of concern. Citizens are entitled to make statements about these issues, whether they are for or against, and the commission was an ideal opportunity for that to occur. Any who sought to give evidence but were intimidated by others and thereby constrained from doing so have a genuine cause for complaint. If there is any material upon which that matter can be further developed, I am happy to consider it.

In relation to questions 3 and 4, one would hope that the Federal inquiry receives arguments that are well founded and properly based. The State Government has made a submission to the Mathews inquiry, doing two things. First, we urged that it be dealt with quickly because we do not believe that there is a need for a long, drawn-out inquiry. Secondly, our submission referred particularly to the report of the royal commission and its evidence, and that has been made available to the Mathews inquiry, urging that inquiry to rely quite heavily on the evidence and the findings of that royal commission. A number of witnesses gave evidence and a number of potential witnesses were invited to do so but declined to give evidence. So, both sides of the debate were the subject of inquiry by the royal commission.

In relation to question No.5, I will refer that matter to the State Minister for Aboriginal Affairs. In relation to question No.6, about the approach to the relevant Federal Minister, I will consider that matter and bring back a reply.

I should say that it is the wish of the State Government—and it has already been expressed to the Federal Government as well as to the Matthews inquiry—that the inquiry under the Federal Aboriginal and Torres Strait Islanders Heritage Act should not be an extensive inquiry but should be dealt with expeditiously and rely heavily on matters which have already been tested in the public arena before the royal commission.

BOOT CAMPS

In reply to **Hon. SANDRA KANCK** (2 April).

The Hon. K.T. GRIFFIN: The Minister for Correctional Services has provided the following response:

1. No.
2. The Minister has read research material on boot camps.
3. See 1.

HINDMARSH ISLAND BRIDGE

The Hon. A.J. REDFORD: I have a supplementary question: will the Attorney-General advise this place whether or not the State Government intends to intervene in the High Court proceedings in which the appointment of Justice Matthews is being challenged?

The Hon. K.T. GRIFFIN: The Government has not yet been called upon to make that decision. As Attorney-General I have not yet received any section 78B notices, which are required under the Judiciary Act to be provided where a matter of constitutional importance is at issue in any particular case. If those notices are provided to me and to other Attorneys-General around Australia we will make a decision based on the merits of the case and determine at that point whether or not we will be intervening

NURSING HOMES

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question about the disaster that happened in a disabled persons' nursing home in Victoria.

Leave granted.

The Hon. G. WEATHERILL: The terrible disaster that happened in Victoria reminds us of the complaints that were received from people in South Australia when Rua Rua Nursing Home and several other nursing homes for mentally retarded and bedridden people were closed. Many of these people were moved into private homes. I am concerned about renovations that were done to these buildings in relation to widening doorways to enable beds to be wheeled out if a fire occurred and whether or not sprinkler services have been installed in the buildings. The same applies to some private nursing homes. Will the Minister review facilities in which retarded people live in order to ensure that this type of disaster cannot happen in South Australia?

The Hon. DIANA LAIDLAW: I am sure that every honourable member in this place and the other place would share the honourable member's concern about the fire last weekend in Victoria and the possibility of any such circumstances being repeated here. I understand that the issue was not about people escaping the consequences of the fire because of mobility difficulties—so the width of doors and mobile beds and chairs was not an issue—but about the residence being for people with intellectual disabilities and the possibility of there being locked doors and a whole range of other things.

The Minister for Health has already undertaken inquiries following the incident last weekend. I know that the Metropolitan Fire Service is diligent in this regard. However, I will refer the honourable member's question and bring back a more detailed reply.

The Hon. G. WEATHERILL: I have a supplementary question. The main point I was trying to make concerned the widening of doors in private homes which the Government had purchased and in which bedridden people resided so that those persons could be wheeled out quickly.

The Hon. DIANA LAIDLAW: I understand the nature of the honourable member's question, and those matters will be considered in the reply.

PROFESSIONAL LIABILITY

The Hon. R.D. LAWSON: I seek leave to make a brief statement before asking the Attorney-General a question about professional liability.

Leave granted.

The Hon. R.D. LAWSON: Under the Professional Standards Act in New South Wales, professionals in areas such as accountancy, law, architecture, property valuation and engineering are able to limit liability to a specified multiple of the fee charged for the service which gave rise to the liability or to place a cap on liability. This scheme in New South Wales is administered by a Professional Standards Council. The benefits of that scheme are available only to professionals whose associations adopt a compulsory insurance scheme for their members.

I am informed that no scheme has yet been submitted or endorsed by the Professional Standards Council in New South Wales, although it was recently reported that the Association of Consulting Engineers and the Institute of Engineers Australia have made a submission and are awaiting approval. In that submission the two bodies are seeking to cap member liability to $3 million, provided that their members have an appropriate level of professional indemnity insurance.

It has recently been reported that the accountancy profession is preparing to renew its Australia-wide campaign calling for a ceiling on the professional liability of accountants, especially of auditors. In addition to the New South Wales legislation the Parliament of Western Australia has been examining the issue for some time. The Select Committee on Professional and Occupational Liability in that State, chaired by the Hon. Max Evans, published a report in January 1994. That report recommended that the Western Australian Parliament proceed with a professional standards Bill. It was also proposed that each State independently enact legislation which is capable of operating on a cooperative basis to facilitate a national approach to this issue. The Western Australian report also recommended that the rule on joint and several liability be changed to separate liability in relation to cases of professional liability.

On this last-mentioned issue of joint and several liability, a report was commissioned by the Federal and New South Wales Attorneys-General—I understand with the support of the Attorneys-General from the other States and Territories. That commission was issued to Professor Jim Davis of the ANU, and he published a report in 1995 recommending that the present joint and several liability of defendants in actions for negligence causing property damage, or purely economic loss, be replaced by a liability which is proportionate to each defendant's degree of fault. My questions to the Attorney-General are:

1. Has he examined the possibility of introducing professional standards legislation in South Australia?

2. Does he support the introduction of some such measure in this State?

3. Does he support alterations to the law relating to joint and several liability for professional persons?

4. Will he examine the operation of professional standards schemes in other States with a view to introducing one here?

The Hon. K.T. GRIFFIN: It is an important issue and has been on the agenda of the Standing Committee of Attorneys-General for quite some time.

The Hon. T.G. Cameron: Labor people have been looking at it, too.

The Hon. K.T. GRIFFIN: My predecessor was wrestling with the issue as well. But it is also on the agenda for the Ministerial Council on Corporations Law but, in that context, in relation to auditors under the corporations law. There are mixed views around Australia about the desirability of capping professional liability and even moving to proportionate liability as opposed to joint and several liability. The difficulty is that the issue of liability generally relates to negligence. One has to ask the question of principle: why should professionals be treated differently from other members of the community in relation to the application of the law of negligence? There is also the issue of principle as to why an innocent citizen relying on professional advice should suffer loss if that advice is negligently given. Why should the professional have his or her liability capped and the innocent citizen carry the loss which might arise from a negligent act or omission? It is a very important matter which I do not think anybody has yet grappled with in terms of the principle.

The argument from the accounting profession is that the question of liability is reflected in the fees that are charged. I have no doubt that a certain measure of backup is built into the fees charged by professionals. Notwithstanding that, we still return to the question of principle to which I referred. If a professional is negligent, notwithstanding the existence of professional liability insurance, why should the innocent citizen who suffers loss and damage carry a significant part of the burden for someone else's mistake? I know that we have limited liability for non-economic loss in relation to motor vehicle accidents under what is a universal compulsory third party bodily injury insurance cover, but it is limited. There is not a cap to loss of earnings or other elements of damage, although there is some discussion publicly from time to time about limiting even damages for loss of future earnings.

My own view is that the case is yet to be made out as a matter of principle for capping liability: it is not an issue upon which all Attorneys-General around Australia agree. There is also not any agreement on changing joint and several liability to proportionate liability and, again, there are differing views around Australia about that. I have no present intention to propose that legislation capping liability be introduced in South Australia. The issues in New South Wales I am certainly prepared to look at. As I understand it—and the honourable member has referred to the fact—there has not yet been any approval under the Professional Standards Act in New South Wales.

I suppose the only other point that needs to be made is that, if one limits the liability for negligence of professionals, should we not also limit the liability of others in the community for negligence and, if so, what happens to the innocent citizen who suffers loss as a result of someone else's fault?

FISHING, NET

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney General, representing the Minister for Primary Industries, a question about netting regulations.

Leave granted.

The Hon. M.J. ELLIOTT: Last week the Legislative Council knocked out regulations relating to net fishing in South Australian waters. The following day the State Government reintroduced the same regulation in two parts. At the time the regulation was disallowed, the Democrats indicated in the Parliament that, if clear evidence was brought forward by the Government that fish species targeted by netters were at risk, the regulations would be supported. The Government failed to do this. My questions are:

1. Does the Government have evidence which it has not brought before the Parliament that fish stocks are at real risk because of recreational netting?

2. Is the reintroduction of the regulation simply a delaying device until new regulations are able to be put in place?

3. Is this Government treating the Parliament with contempt by reintroducing the regulations?

The Hon. K.T. GRIFFIN: I will refer those questions to my colleague in another place and bring back a reply.

MATTERS OF INTEREST

SCHOOL SYSTEM

The Hon. A.J. REDFORD: Last month I received a letter from the Fitzroy Community School regarding the reform of the school system. The letter stated that the Fitzroy Community School, situated in metropolitan Melbourne, was an independent school founded in 1976. In the letter the co-founder (Phillip O'Carroll) asserted a number of things, including the fact that children's prospects were being retarded, parents' rights were being denied, taxpayers' money was being squandered and educators were being prevented from opening schools through the current State school system. He stated that, whilst accountability has swept modern democracies, it has not yet touched the school industry. I must say that I do not believe that I am qualified to comment one way or another about whether there is an absence of accountability in the South Australian State school system, but the increasing trend of transfers from the public to the private system should give our Education Department some cause for concern.

My children attend a State primary school, and I am extremely impressed with the quality and standard of education being offered at their school. Indeed, I have seen a marked improvement in the attitude of all three of my children, particularly the youngest one, since shifting them from the private system. I have also been impressed with the role and enthusiasm of my fellow parents, whose activities and assistance—always voluntary—have considerably enhanced the school community.

I return to the letter from Mr O'Carroll, who makes the following assertions:

- That the school funding system has created two types of family: those who can choose to go to a private school and those who cannot.
- That there are people who stay in the public system only because of financial disadvantage.
- That often State schools cost more than private schools to run and therefore disadvantaged children are being used to support the principal beneficiaries of the system, which he claims to be unions, bureaucracies and teacher training academia.

He goes on to suggest that parents know what is best for their children and, secondly, that parents are the key to reform of the education system. He asserts that school councils under the current system pay lip service to parents' rights and, in fact, create as many problems as they solve. Mr O'Carroll says that the only way that parents can exercise real power is to give them the power to choose which school they use. He asserts that standards would quickly rise if such a system were adopted. I know that certain elements would no doubt quickly dismiss the suggestions made.

Indeed, I know that the former Prime Minister of the United Kingdom (Margaret Thatcher) was seriously considering the adoption of an education pound being given to parents to enable them to choose their children's school. However, the proposals disappeared with her resignation.

In criticising the current system Mr O'Carroll says that equity should mean Government funding of all children's schooling according to family income. He says that does not happen now. He states:

> . . . a low income battler who has the misfortune to believe an independent school may be better for their child gets only a 29 per cent share, pays the rest from after-tax income, and pays tax for. . . millionaires to get free schooling for their children! The suffering of people in this position has long been ruthlessly ignored by the 'social justice' aficionados.

Mr O'Carroll goes on and proposes a number of changes to the way in which education is funded. He suggests, first, that we should fund children by need and not the proprietors of schools by political clout. He suggests, secondly, that there should be an open door to new schooling, and he refers to a Canberra decision in a document entitled 'Review of the new schools policy', which says that a school, to commence, must have 50 students, and that existing schools can be given the power of veto in relation to a new school. That must be anti-competitive.

Mr O'Carroll's third suggestion is that the administrators should be free to employ the best teachers, whether or not they come from the limited selection of officially trained teachers. I do not necessarily agree with all Mr O'Carroll's comments, but I do believe that they warrant careful thought and a considered response. If we did adopt this system, school closures perhaps would depend much more on the actions of parents and of teachers and not on those of Education Ministers and bureaucrats. As a Liberal I am attracted to the idea of giving greater power to parents and their children.

WORK FORCE

The Hon. T.G. ROBERTS: I raise the issue of the changing nature of work and the difficulties young people—Aboriginals and disadvantaged people generally—have in getting starts into the work force and, for those who do have a start, being able to continue in the same nature of work without training and retraining. The difficulty young people have in entry is to try to forge a position into an ever changing work force. We have a high province of unemployment of young people—up to 25 and 30 per cent in some areas—and we have some young people who are now looking at two and three generations of unemployed within their own family groupings. The only hope that they have is through education and training. Unfortunately, we now have a situation where even university graduates, tertiary trained people and people who have been retrained two and three times are unable to enter the work force. The only option they then have is self-employment through employment generated projects, which hopefully, the Federal Government will see some sense in providing risk capital to enable that to happen.

The difficulty that middle-aged people have—people who have been in the work force and who have been forced out either by restructuring or redundancies through closures—in being able to re-enter the work force is to be retrained into some other existing industry but, in most cases, those opportunities either in retail, commercial or industrial are all taken by people who are advancing through on a career basis within those areas of employment. So, for new people to get a start in those employment areas becomes almost impossible. We then have the growth of part-time and casual work in those industries that offer secure employment, or have historically offered secure employment. In a number of cases, particularly where young people are concerned and particularly young women, we now have a situation where to get 36, 38 or 40 hours per week many people have to work at two, three and sometimes four jobs in casual or part-time work to maintain a standard of living that, in previous generations, we all took as a starting point for life.

This brings about a lot of destabilisation in relationships. It brings about destabilisation in people's abilities to relate

to three and four work places and the difficulty to relate to two and three employers. We now have pressure on award provisions. For those people who are employed we now have a change to enterprise bargaining arrangements that could lead to individual contracts and a breaking up of the traditional collective bargaining models that Australia has been used to. With individual contracts and the competition that that brings within that work force you then have the added pressure of individuals being left to negotiate—either through a collective bargaining enterprise, or through individual contracts—their permanency, their permanent part-time work or their casual work, which leads them to be able to work efficiently and effectively and to run their own personal lives.

Only time will tell what impact that will have on those individuals within that workplace, plus the large pool of unemployed who cannot make that scene, but I think we can envisage that as individual contracts, part-time and casual work replace the certainty of full-time work you will get a different person and a different society emerging. I am afraid that it will only lead to the destabilisation of those people in work and make it much more difficult for people on the outside to get in. The only answer that the troglodytes have is to force wages and conditions down and to have people competing for the interests of the employers in relation to those jobs. The other disturbing trend is for fewer jobs to be made available in the public sector through outsourcing. Again, that brings about a destabilised position within a work force, less loyalty, less certainty, less security and a far more insecure nation as a result.

GRAIN INDUSTRY

The Hon. CAROLINE SCHAEFER: In choosing my topic today I hope I do not raise the ire of either the Hon. Anne Levy or my parliamentary colleague and friend the Hon. Diana Laidlaw. However, two weeks ago in this place a motion was carried congratulating all concerned with the success of the Adelaide Festival of Arts, and I certainly agree that all who participated enjoyed the festival. Many have said that it was perhaps the best festival ever held in Adelaide and now rates as second only to Edinburgh as the best arts festival in the world. I would add my congratulations to those already extended in this place. It has even been said that the festival may have traded at a profit for the first time in many years and our Government has committed extra funding for the promotion of the next festival.

The *Stock Journal* editorial at the time of the festival commented that one could be led to believe that South Australia was in the throes of a festival led recovery, so I thought it might be time for me to discuss a conference that I went to on 28 March, the annual conference of the grain section of the South Australian Farmers Federation, where a few interesting statistics were uncovered—

The Hon. T.G. Roberts interjecting:

The Hon. CAROLINE SCHAEFER: Yes, this is the Fringe—statistics, which, in spite of my constant carping, do not appear to make any headlines. I agree that such a festival may well be the icing on the economic cake but my concern today is where the cake comes from in the first place, and in particular in the grain industry in South Australia. Some interesting facts are that over the 10 year period to 1995 South Australia has exported, on average, 3.6 million tonnes of grain per annum, representing $615 million per annum of export income to this State. In taking in those statistics we need to remember that the past 10 years have been some of the tightest ever experienced by grain producers in South Australia. The 1995 farm gate value of all grain produced in South Australia was $1.1 billion and, when one considers that it is estimated that each export dollar translates to $5 within the internal economy, the $1.1 billion must certainly have been a worthwhile contribution to the South Australian economy.

With world grain supplies the lowest they have been since the Second World War the outlook for grain growers in Australia is the most optimistic it has been for many years. The current 1996-97 wheat pool estimate is $179 per tonne delivered to Port Adelaide, which is the highest ever first estimate from the Australian Wheat Board. We often speak of new primary industries such as aquaculture and viticulture and the effect they will have on our economy, but the South Australian grain industry is predicted to add at least another $200 million to its current gross value by the year 2000. South Australian and Australian farmers continue to be the most cost-effective dry land growers in the world and continue to seek more efficient and effective methods of bringing their clean, green product to the world market place. We have recently seen the release of an interim report on the future of another deep sea port for South Australia and, while I recognise that this report is in its infancy and much more consultation is required, it is estimated that a suitably placed deep sea port could save the average farmer $18 per tonne in freight costs—surely a great incentive for the workers in this great industry.

As a young adult I grew up in an era where there was guaranteed minimum price for grain and many wish that we could still afford the luxury of this reliability today. However, this cannot be the case if we are to continue our leading competitive edge. Farmers have been asked to grasp knew marketing methods and, as part of that move, I note with interest and pleasure that the Sydney Futures Exchange will now be trading in wheat contracts. This will provide the Australian grain industry with an instrument tailored for the domestic market to manage price risk caused by fluctuations in the world grain markets. This will allow Agribusiness to accurately hedge its price risks.

Members would be aware that wheat is South Australia's major grain, and the Australian Wheat Board is undergoing restructuring to make it a meaner, leaner marketing corporation for today's forward thinking and scientific farmer. An indication of the level of competency of our marketing arm is that 900 000 tonnes of grain had already been shipped out of South Australia by the end of March, so we can expect that we will be long finished by the middle of the year.

The PRESIDENT: Order! The honourable member's time has expired.

SPEEDING OFFENCE

The Hon. R.R. ROBERTS: I wish to bring to the attention of members a matter that occurred on 1 July last year. We all hear from time to time stories about infringements of the Road Traffic Act, and we have been amused and bemused by them for some time. Who will ever forget the story of the speeding stobie pole and such other stories? I relate an incident that occurred on 1 July last year when my constituent was travelling to Wallaroo, and was confronted on the outskirts of Wallaroo by police, with a radar gun, standing in front of the 60 kilometre speed sign. Upon inquiring whether there had been an accident, he was advised he had been pinged for a breach of the Road Traffic Act in

that he was doing 80 kph in a 60 kph zone. He disputed that fact.

He was advised by the police that there was a speed sign some 400 metres to his rear which had been gazetted some 18 months prior to the alleged offence. He was told that the notification had appeared in the local paper, which is a bit of a problem, because he actually lives in Banksia Park and obviously was not aware of it. When he returned to the site, he found that apparently when roadworks had been undertaken at the site some two years earlier the sign had been moved to the fence line between two sign posts. Normally anyone travelling on the road would look to the verge of the road (where most signs are placed) to observe the sign. Incidentally, he was clocked at 81 kph, not 80 kph.

On disputing the allegations, he was summonsed to the Wallaroo police station to face the charge. He was not prepared to accept the on-the-spot fine, because in his view he was not guilty of the offence and wished to fight it. On 14 November, when he appeared in court, he reported the fact that the sign had been shifted. He also presented two statutory declarations from people travelling with him previously to say that the sign had been shifted. To his amazement, he found it had been shifted some 3.8 metres closer to the road. When advising the court, there was an absolute denial that it had ever been shifted.

The story goes that he was forced to seek the advice of the battler's barrister, Mr Gordon Howie, who attended the site and was prepared to give evidence. However, when he attended in December, lo and behold, the sign had been shifted again. Following my inquiries of the regional manager of the Highways Department, I was assured that no-one else would had shifted it, and, if it had been shifted, it would have been by a person or persons unknown.

My constituent has now been to the court four times with loss of wages and travelling expenses, and on the last occasion the police evidence was ruled out and the magistrate said that he found that the police officers were not truthful in the court, either because they failed to look carefully or were deliberately untruthful. Unfortunately, in such a case, the *Proudman v. Dayman* defence was not available. I am sure that you, Mr President, are aware of that defence which provides that an honest and reasonable mistake had been made. With respect to another well-known case, the *Verran v. Roberts* case of 1938, the magistrate found that he had discretion to mitigate the penalty in this case which was not really in contemplation of what the Parliament had intended.

No conviction was recorded and no penalty was imposed. However, he was presented with court costs of $69, $25 CIC levy and $16 other costs, totalling $110. Subsection (6) on page 13 of the Criminal Injuries Compensation Act provides:

> Where a levy is payable under this section by a person who is convicted of an offence. . .

I point out that my constituent was not convicted. Therefore there seems to be another injustice imposed on him. The case was proven but no conviction was recorded and no penalty imposed, but he is now up for $110, some four days wages. I ask the Attorney-General and the Minister for Transport if they could give some consideration to my constituent's problems and some relief.

RED CROSS

The Hon. J.F. STEFANI: Today I wish to speak briefly about the wonderful work of Red Cross and its dedicated group of volunteers who, through their tremendous contribution and support, have established the Australian Red Cross Society as a household name for helping people in need, both in the community in which we live and also throughout the world. The society has changed its structure over time and adopted its activities to meet—

The PRESIDENT: Order! If the Minister and her friend wish to carry out a conversation could they go outside the Chamber or go somewhere else.

The Hon. J.F. STEFANI: The society has changed its structure over time and has adopted activities to meet the ever-changing needs of the community. The Red Cross Society has drawn its strength from the very community to which it has delivered its services. In today's world, as was the case many years ago, there is a remarkable sameness in the basic needs of people, especially in times of emergency, whether at national or personal level, with which the Red Cross movement is basically involved. It is evident that, in times of emergency, the basic things that keep people going, no matter how strong they may be, are food, shelter, human compassion and, probably above all, a sense of human solidarity. The Australian Red Cross Society has provided many variations of these services to meet the needs of millions of people over a period of more than 75 years of involvement with the community.

The organisation in Australia was first formed as a branch of the British Red Cross Society at the outbreak of the 1914-1918 war, attracting the interest of wise and forward thinking Australians—mostly women, led by Lady Helen Munro Ferguson. At that time, the new organisation attracted a level of financial support from the Australian community which has never been equalled since.

In the second phase of its operation, the inter-war period from 1919 to 1939, the newly formed branch became known as the national Red Cross Society in its own right, consolidating its organisation and codifying its rules. It began the first of its civilian services during the influenza epidemic and extended them during the dark days of the Depression. It was during this period of time that Red Cross commenced a continuing association with civilian hospitals and with blood transfusion. It was also during this period of time when the society assumed the responsibility of providing a nationwide transfusion service which supplied blood products free of charge to millions of recipients. Since the post war period, the Australian Red Cross Society has established the Red Cross Blood Transfusion Service and the Bone Marrow Registry Service.

Today, Australians have come to recognise the Red Cross Blood Transfusion Service is one of the best in the world. This service is supported by hundreds of thousands of loyal voluntary blood donors. Australian Red Cross has played an increasing role in the work of International Red Cross sending money, goods and personnel to many parts of the world to provide assistance to the homeless, the famine stricken, the physically disabled and the dying.

Red Cross in South Australia is part of this international network, the largest humanitarian organisation in the world, and maintains its services to the people in this State according to its charter and the needs within the community. Red Cross helps many thousands of South Australians every day. The voluntary transport service drivers are dedicated, taking debilitated sick people and cranio-facial unit patients to and from hospital and for radio and renal therapy treatment. Volunteer drivers also transport many clients to Red Cross day care centres where staff and many volunteers, family

members and friends, share in new learning skills and experiences.

Red Cross is involved in first-aid training and each year more than 20 000 people are trained by qualified Red Cross instructors. Red Cross also provides training in occupational first-aid, as well as training for the care of the sick and people at home. At State and national levels, a national Red Cross Disaster Relief Committee has been established, and the society has embarked on a standard pattern of disaster coordination and training throughout Australia, working closely with the national and State disaster organisations and emergency services. Red Cross is always ready for the next disaster whatever shape it may take: bushfire, flood or cyclone.

I would like to mention briefly some of the other work which Red Cross has undertaken, such as the long-standing partnership with the Federal Government in the provision of the Colombo Plan, providing training for our Asian neighbours in such areas as disaster preparedness techniques and blood transfusion; the society's involvement in the revision of the Geneva Conventions, both in 1949 and in 1975 at the Diplomatic Conference; the significance of the Australian Red Cross Society's contribution at the international level; the five year Friendship Program with the Indonesian Red Cross Society 1968-73; and the close links with many Red Cross societies in Asia. On the other side of the international coin there are examples such as the very touching donation of $18 received from the Khmer Red Cross by the victims of Cyclone Tracy in Darwin. This is evidence of an international solidarity of a remarkable kind, as well as being a tangible sign of identification by many migrants with Red Cross. In this brief presentation time has not permitted me to do justice to the enormous work undertaken by the Australian Red Cross Society and its many volunteers. The symbol of Red Cross is known to all people throughout the world. It has kept many people in touch with their families and has met human needs at all levels, and this has seldom been achieved by any other organisation.

MOTOR VEHICLE INDUSTRY

The Hon. P. HOLLOWAY: This morning the Premier has been off in Canberra talking about a number of issues of importance to this State. The Premier was on the Keith Conlon program on 5AN this morning talking about a number of those issues, including the motor vehicle industry. The motor vehicle industry is of great concern to me; I have had an interest in it for a number of years. I was fortunate once to represent the electorate in which the Mitsubishi plant was located, and I have had a number of tours of that plant and much involvement in that industry. This morning I was rather surprised to hear what the Premier had to say on the talkback program. I quote from the transcript of that program, when the Premier said:

> But what is important here is to understand the change in the structure of the Australian market. If you went back to 1988, just eight years ago, the level of tariff support for the car industry was 57.5 per cent, and imported cars represented only 20 per cent of the domestic Australian market. Now, in 1996, that tariff support has dropped from 57.5 per cent down to 25 per cent, and the imports have risen from 20 per cent of the domestic market now up to 53 per cent.

So far so good; those figures the Premier used are certainly facts. But he then went on to talk about solutions. He said:

> . . . there are various ways of giving support to the local industry. One is to maintain or increase the value of export facilitation, and one problem at present is that the export facilitation plan declines in value as tariffs drop further. Secondly, I think they have to look at whether or not it's appropriate to maintain at least half the domestic car market for local manufacturers in Australia, because you can't maintain a motor industry just on exports without maintaining a very strong stance on the domestic market.

So, what the Premier was really talking about was quotas. That surprised me greatly, because I can remember formerly in the House of Assembly moving a number of motions trying to protect the car industry. That was about the time when the Federal Opposition under Dr Hewson was then launching Fightback, which was offering 'zero or negligible tariffs' (which was the term the Opposition was using) for the motor vehicle industry. Premier Brown, then Leader of the Opposition, was backing that to the hilt. When I moved those motions the then Leader of the Opposition had no hesitation in saying that it was necessary to cut tariffs to zero or negligible levels.

How can the Premier have any credibility in going over to Canberra today and arguing for changes to the motor vehicle plan when he is on record as supporting zero or negligible tariffs in the past? Any politician who plays these sorts of cheap political games can expect that they will eventually come back to haunt them. I think the Premier will have great difficulty in getting anyone to take him seriously when you look at his readiness to play cheap political games, as he has done in the past.

What concerns me most is that he should now be advocating quotas. I would have thought that any reasonable person with any awareness at all of the motor vehicle industry would long ago have written off quotas as being a disaster. The great problem is that if we start to go back to quotas we will invite retaliation from those countries to which we are now exporting. While the Premier is correct in saying that the number of imported vehicles into this country has risen greatly, it is also the case that we are now exporting a much larger number of vehicles overseas. Mitsubishi at its Tonsley Park and Lonsdale plants are great examples of that. If we are to introduce quotas, we will invite retaliation to our exports and put the whole industry under threat. As well as that, in the past, when quotas on imports were introduced, all that did was make a few importers very rich, because it put a premium on the price of that reduced number of imports which can be introduced.

If the Premier is concerned about the car industry at the moment and if he wishes to advocate that we should have some review of tariff levels or that perhaps we should consider freezing them at the current level of 25 per cent, he certainly has some sympathy from me; I agree that we should be looking at those levels. It is risky to maintain the program of removing tariffs to levels that are too low. Obviously, there has to be a limit somewhere or the car industry could be in serious trouble, but to go back to the past and advocate quotas is disastrous for this State. The Premier should be listening to his Minister for Industry, Manufacturing, Small Business and Regional Development, Mr Olsen, who clearly has a much better appreciation of the motor vehicle industry than he does.

BILL OF RIGHTS

The Hon. R.D. LAWSON: I wish to continue the remarks I commenced on 14 February on the subject of a Bill of

Rights in Australia. On that occasion I had given a brief outline of the history up to 1988, when the Australian electorate rejected four proposed amendments to the Federal constitution to entrench the right of trial by jury, freedom of religion, fair compensation for private property and local government. The rejection of those referendums by the electorate was overwhelming, and the Chairman of the Constitutional Commission which had recommended them, Sir Maurie Byers, made a stinging attack upon the ophidian nature of much of the opposition.

Prior to 1988—in fact, in 1985—across the Tasman in New Zealand, there had been extensive discussions on a proposal for a Bill of Rights. The Lange Government released a white paper in that year entitled 'A Bill of Rights for New Zealand'. It was proposed then that the New Zealand Bill required a 75 per cent majority of all members of the House of Representatives or a majority of electors in a referendum for any amendment to the then proposed Bill of Rights. That proposal was strenuously opposed publicly in New Zealand, and in 1990 a new Bill of Rights was introduced by Prime Minister Palmer and passed, notwithstanding the protests of the Opposition National Party.

The New Zealand Bill of Rights was appropriately described in the white paper of 1985 as follows:

> A Bill of Rights for New Zealand is based on the idea that New Zealand's system of Government is in need of improvement. We have no second House of Parliament. And we have a small Parliament. We are lacking in most of the safeguards which many other countries take for granted.

That indicates a peculiar problem in New Zealand with its unicameral system of Government. The New Zealand Bill applies only to acts done by the legislative, executive and judicial arms of Government. It does not impose any obligations on individuals. The Bill directs that courts are required to interpret legislation in the light of the Bill of Rights, but no court is empowered to hold any legislative enactments invalid because they are contrary to the provisions of the Bill of Rights.

A similar type of proposal was introduced in the Australian Capital Territory in 1995, when a private member's Bill of Rights was introduced. It followed an issues paper issued by the Legislative Assembly of the ACT in 1993. The ACT Bill, which did not proceed beyond the second reading, provided for a number of so-called fundamental freedoms and a number of so-called democratic rights such as rights to secret ballot, equal suffrage and the like. Division 3 of the Bill deals with legal rights such as rights to life, liberty and security; division 4, rights of equality; division 5, rights of indigenous inhabitants; and division 6, other rights such as privacy and the rights of children. This ACT Bill appears to be the model for the draft Charter of Rights and Freedoms which was produced by the Law Council of Australia in May 1995. I will continue my remarks about that charter in due course.

MINLATON SIGNS

The Hon. R.D. LAWSON: I move:

That District Council of Minlaton by-law No. 2 concerning moveable signs, made on 17 November 1995 and laid on the table of this Council on 6 February 1996, be disallowed.

This motion deals with a by-law of the District Council of Minlaton concerning moveable signs. It is a by-law that is in identical terms to other by-laws of other local government authorities; in particular, it is in identical terms to the by-laws the District Councils of Kapunda and Warooka on the same subject matter.

On 3 April in this Chamber, and reported at pages 1244 and 1245 of *Hansard*, I gave the reasons why the Legislative Review Committee recommended the disallowance of by-laws in identical terms, and I do not propose to repeat what I there said. Suffice it to say that this by-law does offend an important principle, and for the reasons previously given and ultimately adopted by this Chamber, I commend the motion to the Council.

The Hon. P. HOLLOWAY: The Opposition supports this motion. I have put on record our opposition to similar by-laws in the past and I do not think that it is necessary to repeat that now.

Motion carried.

YORKETOWN SIGNS

The Hon. R.D. LAWSON: I move:

That District Council of Yorketown by-law No. 2 concerning moveable signs, made on 13 November 1995 and laid on the table of this Council on 6 February 1996, be disallowed.

This motion also deals with the moveable signs by-law, on this occasion a by-law of the District Council of Yorketown which is in identical terms to the similar by-law of Kapunda, Warooka and Minlaton, all of which have been disallowed.

The Hon. P. HOLLOWAY: The Opposition supports the motion.

Motion carried.

DOGS, PORT LINCOLN

The Hon. R.D. LAWSON: I move:

That Corporation of Port Lincoln by-law No. 7 concerning keeping of dogs, made on 13 November 1995 and laid on the table of this Council on 6 February 1996, be disallowed.

This by-law of the Corporation of the City of Port Lincoln concerns the keeping of dogs. The Dog and Cat Management Act of 1995 empowers councils to make by-laws relating to the keeping of dogs. That Act requires by-laws relating to this subject matter to be submitted to the Dog and Cat Management Board for approval prior to public consultation. This by-law was not submitted to the Dog and Cat Management Board for approval and, to that extent, the process envisaged by the legislation was not followed.

More important, however, is that this particular by-law requires a permit for the keeping of approved kennel establishments on the premises within the council area. Neither the Dog and Cat Management Act nor the Local Government Act contains any provision empowering councils to issue and charge for permits for the keeping of kennels. That type of regulation has been removed from the legislation. Of course, there do exist appropriate controls under the Development Act for the keeping of kennels and other like establishments, and the Legislative Review Committee took the view that it is inappropriate for a council and, indeed, *ultra vires* the power of a council, to seek to create some form of licensing mechanism for kennels when appropriate

provisions already exist under the Development Act for that purpose.

Accordingly, the Legislative Review Committee took the view that this by-law ought be disallowed. Communication from the committee was duly made of its feelings on this matter to the council, and I am informed that the council accepts the position and has indicated that it will be remaking the by-law in an acceptable form.

The Hon. P. HOLLOWAY: For the reasons just given by the Hon. Robert Lawson the Opposition supports this motion.

Motion carried.

STATUTORY AUTHORITIES REVIEW COMMITTEE: LEIGH CREEK COAL

Adjourned debate on motion of Hon. L.H. Davis:

That the interim report of the committee on a Review of the Electricity Trust of South Australia (Costs of Transporting Coal Extracted from Leigh Creek Mine) be noted.

(Continued from 3 April. Page 1241.)

The Hon. A.J. REDFORD: I support the motion and commend this report to this Chamber. I remind members that the committee recommended that ETSA continue to negotiate with AN to seek lower prices for the transportation of coal from Leigh Creek to Port Augusta. In addition, the committee recommended that ETSA explore the possibility of encouraging a competitor to provide the same services as are currently provided by AN. This was a difficult aspect of the ETSA inquiry that the Statutory Authorities Review Committee embarked upon in early 1994.

Indeed, whilst this might be one of our smaller reports, it is also one of our more important ones. I draw members' attention to the fact that the cost of the transport of coal from Leigh Creek to Port Augusta is a significant component in the cost of electricity to ordinary South Australians. Evidence was given and accepted by the committee that freight costs added about $8.50 per tonne and represented approximately 30 per cent of the total fuel costs of the Port Augusta Power Station; in other words, we are talking about 15 per cent of total energy costs. Therefore, it is important to understand the role of the Leigh Creek-Port Augusta rail link in the ordinary and commercial lives of South Australians.

I will not go through the history in detail, but there has been considerable negotiation between ETSA and Australian National over the cost of freight between Port Augusta and Leigh Creek. During the course of evidence on this issue, we were privy to a battle between a State Government owned power monopoly and a Federal Government owned transport monopoly. It was a difficult exercise in sifting the evidence and determining what was fact and what was rhetoric.

It is interesting to note that the issue of commercial confidentiality raised its head during the course of the committee's taking of evidence and also during the course of its deliberations. Indeed, the claim for commercial confidentiality was made by Australian National and to a lesser extent by the Electricity Trust of South Australia concerning their negotiations.

Of more concern was the raising of issues of commercial confidentiality by Australian National when the committee came to look at the cost basis of AN's claim for its haulage rate. It was interesting because the committee was faced with a publicly owned monopoly claiming commercial confidentiality. I have great concerns when a publicly owned monopoly—indeed, a privately owned monopoly—can simply avoid scrutiny by a claim for confidentiality.

I know that this issue has surfaced in other committees of this place and has become an important political issue in this State. As a member of the Government Party, I thought it was interesting to see the attitudes of individual members towards the claim of commercial confidentiality by Australian National which during the time of our taking of evidence essentially was the subject—

The Hon. Diana Laidlaw: They did the same when we had the country rail select committee. They just didn't even turn up then.

The Hon. A.J. REDFORD: Yes. It was the subject of a Federal Labor Administration. Events overtook the committee's deliberations and, if they did not, I would have gone out quite unashamedly, even by myself, and lodged a minority or majority report to the effect that, given its commercial monopoly, Australian National had no right to claim commercial confidentiality in the context that it did. In any event, that was unnecessary because of the recent Federal Government announcement concerning the restructuring of Australian National and the promulgation of Track Australia.

The Hon. Anne Levy: That was the previous Federal Government.

The Hon. A.J. REDFORD: That is what I said.

The Hon. Anne Levy: No, you said 'recent'.

The Hon. A.J. REDFORD: It was made by the previous Federal Government, if that makes the honourable member happy. The report states that the evidence given by AN predated the Federal Government announcement regarding Track Australia which 'was an initiative that would allow track rights to be granted to parties other than AN'. In the light of that announcement, it was felt that the claims of commercial confidentiality by Australian National became less important, and that is because ETSA now has the opportunity to become a competitor itself or to seek other people to become a competitor to AN in the operation of rolling stock on that line. Once a competitive environment is created, if AN is a competitor in that context, it has every right to claim commercial confidentiality to protect itself from another competitor, and I am sure that my fellow committee members would agree with me in making that statement.

The only concern I have in relation to the position of AN is whether or not sufficient information should be given to the State or Federal Parliament about the costs of maintenance and the like in relation to the track itself. In the absence of competition—and it is hard to imagine in a country such as Australia there being competition in the laying and maintenance of tracks—the only real way to ensure that the taxpayer and the consumer of South Australia gets the best deal is by appropriate parliamentary scrutiny. We were never put in a position where we could appropriately or properly provide scrutiny of AN's assertions that it was providing a well-costed service.

The only opportunity the committee had was the report issued by BIE, which is referred to at page 13 of the report and which called into question some of the assumptions made by Australian National. I will not go into that: the report, which is short and to the point, speaks for itself. Needless to say, in reality, the scrutiny that took place in relation to the costs of freight by Australian National occurred not by this parliamentary committee but by BIE, which forms part of the executive function of the Federal Government. As a parlia-

mentarian, I am a little concerned about that but, at the end of the day, there has been scrutiny and it has been accepted by the committee.

They only other matter that I wish to raise is related not directly to this report but rather to how Governments ought to view the performance of monopolies in a commercial context. Evidence was given to this inquiry into ETSA about the changing attitudes of management of ETSA in reaction to commercial changes throughout the world. Not 10 years ago the cost of gas was far cheaper than that of coal. I suppose that, in those days, a true economic rationalist would have shut down Leigh Creek and switched our electricity generation capacity to a solely gas supply. I am sure that there would have been economic rationalists who would have supported that move.

History shows that the price of gas has increased in world market terms to an extraordinary level, whereas the price of coal has decreased. It has decreased because of world market trends and, more importantly, because of efficiencies and better management practices adopted by ETSA at Leigh Creek. A failure to act on the part of the Government 10 years ago may well have been criticised, but in the longer term it has turned out to be better for the community in terms of the cost of energy.

The other important issue with which we are confronted today is the fact that we are soon to be involved in a national competition in relation to the production of electricity. We are part of the national grid, and on numerous occasions we have had evidence to the effect that South Australia could buy its electricity far cheaper from Victoria than continue to generate electricity in South Australia.

However, we need to be very cautious for the same reasons as were appropriate 10 years ago in relation to flicking everything over to gas. We need to be very cautious when examining the cost of electricity from the national grid. We need to be very careful and mindful of the effect of our own ability to generate our own electricity from our own resources on the overall cost of electricity to South Australian consumers.

In my view, it would be impossible to have anything other than a monopoly in relation to the transmission of electricity. I can foresee a situation where we have competition in relation to the generation of electricity; I can envisage a situation where we have competition in relation to the marketing of electricity; but I cannot envisage a situation where the transmission—for the uninitiated that is the sending of power along a power line—can be in anything other than monopolistic hands. The warning to the State Government about the future of electricity generation, transmission and sale in this State is carefully to consider what we do in relation to the transmission of electricity. We must ensure that we do not transfer ownership from a State-owned monopoly, which is the subject of parliamentary scrutiny and political control—with all the downsides that might have—to a private monopoly where there is no scrutiny and no control. I am not saying that I am absolutely wedded to that idea, but I am saying that the Government should be extraordinarily cautious about what it does in relation to the transmission of electricity. Given historical reasons, we need to be very certain about the long-term economic benefit to this State and not just look at short-term considerations.

The Hon. Anne Levy: You are being Playford the second.

The Hon. A.J. REDFORD: That is a kind interjection and I would never claim that, but it is a matter of fundamental common sense. Public and private monopolies are to be applauded in my mind. However, unless technology takes a jump that I cannot anticipate, transmission of electricity must be a monopoly.

The Hon. Anne Levy: We certainly do not want double the number of stobie poles.

The Hon. A.J. REDFORD: I agree. And we do not want the fiasco that is being visited upon us in relation to the Optus-Telstra situation. I believe that if we must have a monopoly there is only one place to have it, and that is in public hands. However, if we can avoid having a publicly-owned monopoly by creating a competitive environment, then my inclination is towards a competitive environment. That may apply in relation to the generation of electricity, although the Government needs to consider that on a long-term basis.

The real challenge is now in ETSA's hands. The former Federal Government's decision to restructure AN and allow track rights throws the ball fairly and squarely into the court of ETSA. I know that it has an extraordinarily difficult job ahead of it in so many areas, and this is another difficult decision that it must make. Instead of dealing with a public monopoly, ETSA now has the option of arranging for other people to take up the track rights offered by AN or Track Australia or, alternatively, take up the track rights itself. That in itself will provide some sort of competitive pressure on AN during the course of the forthcoming negotiations. For the benefit of both AN and ETSA, I hope that a proper and fair result can be achieved. It is certainly not something that should be interfered with by a parliamentary committee or a politician. I do not think anything further said on the topic would advance the cause. I commend the motion.

The Hon. T. CROTHERS secured the adjournment of the debate.

ROADS (OPENING AND CLOSING) (PARLIAMENTARY DISALLOWANCE OF CLOSURES) AMENDMENT BILL

The Hon. M.J. ELLIOTT obtained leave and introduced a Bill for an Act to amend the Roads (Opening and Closing) Act 1991. Read a first time.

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

That this Bill be now read a second time.

South Australia's road reserves provide valuable assets for our State in recreation and in tourism value. However, these assets are increasingly under threat of being withdrawn from use by the public, predominantly for pedestrian use but sometimes by horse riders and others. The State has much to offer the tourism industry but tourism cannot be exploited to its greatest potential if public access is locked up. The scenic areas of our State must remain accessible to support the tourism industry, especially in light of the diversification of the rural sector to supplement income from primary industries. As well, for thousands of bushwalkers around South Australia this means a fast diminishing number of walking routes, caused by the increasing closure and sale of public road reserves.

More than 300 000 South Australians are involved in walking and recreational groups of this kind, according to the Australian Bureau of Statistics, and this does not include cycling and horse riding groups. The Federation of South Australian Walking Clubs believes that, for the bushwalking community, these public access routes provide ideal safe walking access throughout scenic areas of the State and

should be preserved for the recreational enjoyment of both present and future generations.

The federation is concerned that, at the present rate of disposal of road reserves by some local government authorities, few opportunities will remain for safe walking facilities within 10 or 20 years. Less than 40 years ago the concept of the Heysen Trail did not exist, but today it is travelled by thousands of walkers from throughout Australia and from overseas, over the 1 500 kilometres between Cape Jervis on the tip of Fleurieu Peninsula and Parachilna in the northern Flinders Ranges. This trail could not exist without the use of such roads, with at least 60 per cent of the trail being along unmade road reserves.

This is also the case with the other 1 000 or so kilometres of walking trails scattered throughout the State. However, the federation believes that it is not feasible to physically mark all road reserves suitable for walking in order to meet the needs of the increasing number of bushwalkers who are now planning their own walks as well as using the marked trails. This section of the community includes early retirees from a wide spectrum of society, each with high levels of responsibility, enthusiasm, initiative and energy, who simply wish to take advantage of and to walk along access routes intended for use by the public. Many members of the bushwalking community are also dedicated to supporting Landcare and Save the Bush activities.

Roadside reserves often contain valuable native vegetation and corridors for native fauna. These areas are also used by a wide variety of other organisations, such as Greening Australia, field naturalists, ornithologists and other volunteer groups concerned about a range of activities including rare and endangered plant species and the eradication of introduced plants, which are invading both native bushland areas and agricultural land. It has been brought to my attention that existing legislation provides little protection to users of these unmade roads by allowing councils and landowners to negotiate for their transfer to private ownership, with the subsequent and permanent loss of public amenity.

Although provision exists for objection to proposed closures, with examination and assessment by the Surveyor-General, the final decision rests with the Minister for the Environment and Natural Resources, and this decision may be in conflict with the recommendation of the Surveyor-General. I have been told that this situation occurred in 1994, when Mount Pleasant District Council failed to observe a regulation under the Roads (Opening and Closing) Act and this action was endorsed by the Minister in overruling the recommendation of the Surveyor-General and in signing an order to close the particular road reserve.

I believe it is important that all remaining road reserves be retained to provide unrestricted walking access for the enjoyment of the natural environment by both present and future generations. Throughout the world there is increasing awareness of the value of walking facilities. For centuries, walking paths have been protected and defended for pedestrian use in England. New Zealand has introduced a Walkways Act, which provides for the declaration of walkways over both public and private land so that:

> . . . the people of New Zealand shall have safe, unimpeded foot access to the countryside for the benefit of physical recreation as well as for the enjoyment of the outdoor environment and the natural and pastoral beauty and historical and cultural qualities of the areas they pass through.

Greater protection also exists in New Zealand for undeveloped public roads. Where an objection is submitted to the proposed closure and sale of a public access route, the Planning Tribunal adjudicates and may not confirm the council's decision to close the road 'unless satisfied that adequate access to the lands in the vicinity of the road is left or provided.' An article by Don Markwick, a former officer of the Surveyor-General's Department, was published in the summer edition of the Adelaide Bushwalkers' official journal *Tandanya* in 1991-92, which clearly expounds the value and legality of the undeveloped road reserves for use by the bushwalking community. It details a study that was carried out in South Australia to identify all unmade roads throughout the State which have recreational potential and which should therefore remain in public ownership. The resulting set of maps does not appear to have slowed the pace of closures.

It is my intention in this Bill to move several minor amendments to the Act such that not only is ministerial approval necessary for the closure and sale of roadside reserves but that that approval would be subject to the disallowance of either House of Parliament, a protection that we offer to national parks, where boundaries might be changed. I will still have a couple of other minor amendments to make to the Bill as I have presented it, but I thought it important, since I have had it on notice for some time, that I get on the record precisely what I intend, so that the debate can proceed over the next six weeks while Parliament is not sitting.

One amendment that I will move is to put a sunset clause on the proposed Bill. I recognise that it is not a final answer, but I see it only as a temporary solution and as a holding action until we can examine the legislation in New Zealand and other places so that we might have more comprehensive legislation that will give good public access routes throughout South Australia to the benefit of South Australians and others who have the opportunity to visit this State. I ask all members to give serious consideration to this matter and seek their support.

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

SOUTH AUSTRALIAN WATER CORPORATION (PUBLIC INTEREST SAFEGUARDS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 March. Page 1013.)

The Hon. SANDRA KANCK: In summing up the second reading debate I think it is necessary to reiterate what the purpose of this Bill was in the first place, because I had the feeling, from some of the contributions that were made, that there had not been a great deal of reading of the Bill itself. The Democrats proposed this legislation when it became clear that the Government was absolutely determined to go down the path of privatising the management of SA Water. The Bill seeks to ensure that South Australian consumers got the best deal out of the contract that was inevitably signed.

The key points of it were: that it would ensure that the mums and dads investors would be able to buy shares in the contracting company; it was putting in writing what the Government had told us, that is, that the Government would retain the control of water pricing assets and environmental standards; it was aimed at ensuring that export and employment targets would be met with penalties to ensure that

compliance; it was putting in writing the guarantee of technology transfer to local firms; it was putting in writing the Government promise to resume management of the water supply and sewerage services if the contract was breached; and providing for 60 per cent of the successful contracting company to be Australian owned. It is not unreasonable to ensure that these details are placed on a legal footing, and I found it therefore surprising that the Minister for Education and Children's Services, in his second reading contribution and representing the Government, spoke against the Bill.

The Bill was based on the ministerial statement made by the Minister for Infrastructure (Hon. Mr Olsen) on 17 October, although it went a little further in some aspects, such as in ensuring that the mums and dads could be part of the share action. I remind members of what the Hon. Mr Olsen said in his ministerial statement at that time. He said:

- we will not sell any assets
- we will maintain control over prices
- control over concessions
- control over quality
- control over the asset management, and
- control over the environmental program

For instance, in my Bill clause 5(2)(c) provides:

> the contract must require the contractor to comply with standards set by the corporation for the water or wastewater services to which the contract applies.

That is absolutely in line with Mr Olsen's ministerial statement. Subparagraph (d) provides:

> the corporation must retain control over the setting of prices for water and wastewater services.

Again, that is absolutely in line with the ministerial statement. Subparagraph (e) provides:

> the contract must require the contractor to comply with appropriate environmental standards set by the corporation.

Again, absolutely in line with the ministerial statement. Why does the Government oppose it? Mr Olsen's ministerial statement went on to say that the contractor will be a company registered in South Australia with 60 per cent Australian equity and a board with a majority of directors residing in Australia. Therefore, I had new section 8A inserted in the Bill. It states:

> (a) the chairperson of the company's board of directors must be an Australian citizen;
>
> (b) a majority of the members of the board of directors must be Australian citizens; and
>
> (c) at least 60 per cent of the issued shares of the company must be owned by Australian citizens or Australian companies.

Again, right in line with what the Minister had to say, yet for some reason or another the Government chooses not to support this Bill.

As we know the contract has now been signed, it came into operation on 1 January this year and we still do not know what is in it. Parliament and the select committee set up to investigate the contract has been denied access to it. The clauses of this Bill might already exist in the contract but we do not know. All we have is the Minister's word that we have received good value for money. United Water also thinks that it has good value for money, too. So, I wonder who is pulling whose leg. We do not know what measures of accountability have been built into the contract, and as long as the Government uses excuses of commercial confidentiality we will not be allowed to look at the contract. We cannot be assured that measures of accountability have been built in and we are left with no more certainty than the Minister's word. I wonder what level of certainty that gives us. The Minister's word in the ministerial statement of 17 October said:

- the contractor will be a company registered in South Australia with 60 per cent Australian equity

It is now on the public record that we do not have and we will not have that equity. Why should we simply trust the Minister's word when he tells us that accountability is built in?

On a slightly different subject concerning ETSA and its assorted corporations, about 20 minutes ago the Hon. Angus Redford spoke about ETSA in relation to Leigh Creek and he talked about what parts of ETSA could be privatised. I distinctly remember when the ETSA Corporation Bill went through this Chamber about 15 months ago the Minister for Infrastructure told us that under no circumstances would ETSA be privatised. Yet, I note in the business section of the *Advertiser* of 5 April in an article entitled 'ETSA shake-up aims to put customers first' that the Minister is examining an industry commission report on the structure of the electricity corporation and he is obviously quite amenable to parts of ETSA being now sold off. But we had his word back then that it would not happen. So, what is his word worth?

The Hon. Mr Lucas assured us, based on what the Minister for Infrastructure has told him, that some aspects of this Bill are already built into the contract. If that is the case, the Government should be able to support the Bill. If there are concerns about the retrospective nature of the Bill, as Mr Lucas has suggested, then the Government can amend it. This Bill would build into the statute that accountability that we are looking for so that it is on the public record and can be depended on. That is why the Bill is entitled the South Australian Water Corporation (Public Interest Safeguards) Amendment Bill. We are putting in the safeguards. Even today in the editorial in the *Advertiser*—that great champion of the Brown Government—was a statement in relation to both the EDS and water contracts that said:

> . . . judgment is reserved on the promised further benefits.

It seems to me that this Bill does not place outrageous demands on the Government but puts into action what the Minister promised in his ministerial statement on 17 October and, for reasons of ensuring that the taxpayer is not hoodwinked, I urge members to support the second reading.

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

PARLIAMENTARY SECRETARIES

Adjourned debate on motion of Hon. P. Holloway:

1. That the Legislative Council notes the creation of 16 parliamentary secretaries by the Premier.

2. That this Council further notes that parliamentary secretaries represent their respective Ministers at designated functions and in meetings with companies and other organisations on behalf of Ministers.

3. Consequently, that this Council resolves that Questions Without Notice be permitted to parliamentary secretaries on 'any Bill, motion, or other public matter connected with the business of the Council' in which the parliamentary secretaries may be specially concerned.

4. That this Council also calls upon the parliamentary secretaries to resign forthwith from standing committees constituted in either House because of potential ministerial conflicts of interest.

(Continued from 3 April. Page 1249.)

The Hon. R.R. ROBERTS: I support the motion of the Hon. Paul Holloway in respect of the recent appointment of

parliamentary secretaries and their duties and the proposition that is being put forward in this motion that Standing Orders be changed so that Questions Without Notice are permitted to be taken by parliamentary secretaries on any Bill, motion or other public matter. In supporting this it is worthwhile that we go back and look at the history of parliamentary secretaries and see how we in South Australia compare with other people. The question that leaps out of this debate is why have we got 16 parliamentary secretaries?

What moved the Premier to introduce parliamentary secretaries? I will touch on that later. Let us look back at the history of parliamentary secretaries here and why they have come about—I know we have other business to get through, so I will be as brief as possible. The first appointment was that of the Hon. Julian Stefani. The reason for this appointment is well known to members. Being parliamentary secretary to a parliamentary committee is not new, but unfortunately the Hon. Mr Stefani was not blessed with a ministerial position, so the second prize to appease his hurt and wounds was the title. Despite our probing questions as to what facilities will be made available to parliamentary secretaries, we are repeatedly told that there is no extra salary and no perks or lurks, but there is an office in the Office of Multicultural and Ethnic Affairs for the Hon. Julian Stefani. I suppose that time will reveal what other expenses are met.

The second appointment in recent weeks was that of the Hon. Robert Lawson QC, who was made parliamentary secretary for information industries. The question is: why was this appointment made? Quite clearly, everybody knows that the intention some years back, when pre-selections were being held for the Liberal Party, was that the Hon. Mr Lawson QC was to be the white knight to save South Australia from the past Labor Government by introducing new laws, and everything would be rosy. So much so that I am advised by some members opposite that, during pre-selections—

Members interjecting:

The Hon. R.R. ROBERTS: —and the Hon. Caroline Schaefer was a contestant in this procedure—he did put to the preselection college that they ought to preselect him high on the ticket, because the Hon. Trevor Griffin was going to resign in a couple of years and they would need a new Attorney-General. But nobody actually told the Attorney-General. We all know that the Attorney-General is a workaholic and, since the new Government has been in office, it has been like a sausage machine at the Attorney-General's Department. He has put out more legislation—

The Hon. K.T. Griffin: High quality sausages?

The Hon. R.R. ROBERTS: Very high quality sausages. Everybody knows that the Attorney-General is a very diligent parliamentarian, has a passion about the law and works extremely hard. I do note that he was not game enough to nominate someone to be his parliamentary secretary, although I see that Mr Meier got a guernsey on consumer affairs. Obviously, with the machinations in the Liberal Party, the factions are now formalising—the wets and the dries. We all remember the night of the long knives, the day the Premier pushed the Minister for Infrastructure right up to the pointy end of the boat and said, 'We will leave you out there to dry.' But what happened? We all witnessed it. You probably witnessed, as I did, Mr President, the meetings out in the corridors, and the famous meeting across the road. Everybody was starting to formalise. The troops were starting to rebel. The Premier obviously had to do something to calm the troops. They were dividing. Groups were forming. Information was transferring from the Liberal Party. We were getting leaks hand over fist.

The Hon. A.J. Redford: Who was giving you the leaks?

The Hon. R.R. ROBERTS: We will come to that later. I have some information on that. Your name was not mentioned on this occasion but, if we persist long enough, we will get something on you. Leaks were coming out all the time, so much so the angst was getting intolerable within the Liberal Party. In fact, we got to the ridiculous stage that we now have so much angst in this Party between the wets and the dries, and the left outs and the never going to be's and the never will be's, it is an absolute shambles. They had to do something.

The first test came when they reshuffled the Cabinet. This is when the Hon. Mr Lawson never got a gong and had to be given a title. The Hon. Robert Lawson, MLC, QC was not long enough. We had to give him another title. It has worked, because he has gone very quite since then. It did quieten them down. The first test of the new structure was when the Hon. Dale Baker and the Hon. Mr Oswald got the axe. It was very obvious which factional group their replacements came from. Then we had the test in the Party room as to who would be the stronger. When Mr Oswald decided he wanted to be the Chairman of the committee, we had the test and, lo and behold, the underdogs got up, and they found that they had the power. So, immediately, the Premier had to go into damage control—

The Hon. A.J. Redford interjecting:

The Hon. R.R. ROBERTS: Well, Ossie got up, because he had the numbers. You ought to learn to count. Mr Oswald obviously had the numbers, so we had to go into damage control. What did they do? On 14 March, they came up with this latest missile: 'Premier Dean Brown today announced the appointment of 14 parliamentary secretaries to assist Ministers in the administration of their portfolios.' There were two appointed previously. Having seen obviously that the system worked, he decided to try it again.

When you look down the list, it is very interesting to see some of the appointments. I see that Ivan Venning is the parliamentary secretary to the Minister for Mines and Energy, Mr Stephen Baker. This is rather surprising. He did exhibit some interest in the arts some years ago but, having had his fingers slapped by the Minister for the Arts, he obviously was not going to be a candidate for that. I see that John Cummins, with his law degree, has edged Ivan out of that area. But he has been given a gong. He is the secretary to the Minister for Mines and Energy.

Every member in this Parliament knows the passion that Ivan Venning has for farmers. We all know that he is known out in the bush as 'the farmer's friend' and did have strong aspirations for that ministerial spot taken over by one of those well known Brown supporters, Rob Kerin. That is interesting, because they come from the same patch. Ivan is particularly disappointed because, having gathered the numbers in the electoral college to get Rob Kerin up, he finds out he is knocked off from his favourite position by his apprentice. The new Minister for Primary Industries was too cunning to have his major competitor sitting alongside him, so he was shunted off to mines and energy.

I see that Mark Brindal has a guernsey with the Minister for Education and Children's Services (Hon. Rob Lucas). After these 16 appointments were made, we had another test of the system. There was a vote, and I understand that the favoured candidate was Kent Andrew. However, when the numbers were counted this time, the vote was lost 20 to 14.

The Premier has been very successful in giving these people titles and garnering their support. So, the power shift has gone the other way. Mark Brindal is parliamentary secretary to the Education Minister. He probably has the worst job of the lot.

The Hon. A.J. Redford: What was the vote for?

The Hon. R.R. ROBERTS: Joan Hall's spot on the parliamentary committee. Your bloke got knocked off. We all know what a wonderful job the Speaker did in rounding up the numbers. It comes from his great experience in rounding up the sheep over on the West Coast. He did the numbers and they were 20 to 14; check them with your tally clerk and you will find that they are right. Mark Brindal has the worst job.

The Hon. Carolyn Pickles: Baldrick.

The Hon. R.R. ROBERTS: As the Hon. Carolyn Pickles says, commonly known amongst his colleagues as 'Baldrick', Mark Brindal has landed the job as parliamentary secretary for the Minister for Education and Children's Services. I suppose it follows that the Minister for Education and Children's Services becomes Black Adder—and I think it is appropriate that that be his title at the moment. Mark Brindal has found out straight away that it is no bed of roses. The first two jobs he has had to do are to go down and face the people in his own electorate of Unley and tell them that they will build two storey buildings on their land and close a couple of schools. In the spirit of cooperation we invited the Minister for Education and Children's Services to go down and face the people himself. We offered to be cooperative and give him a pair but he decided to pike out of that. So, Mark Brindal is left there.

John Meier has a job with the Hon. Trevor Griffin, and I am certain he will do a very good job in consumer affairs, but I do note that there is no parliamentary secretary to the Attorney-General himself. As for Sam Bass, we all know his qualifications and how he was bitten by a greyhound and kicked by a horse. He is parliamentary secretary to the Minister for Recreation, Sport and Racing and Minister for Industrial Affairs, Graham Ingerson. Enough has been said on that. Joan Hall is the parliamentary secretary to the Minister for Recreation, Sport and Racing and Minister for Tourism. This appointment seems fairly appropriate. Mrs Hall has exhibited a great deal of interest in recreation, sport and tourism and has worked very hard in those areas as a member of Parliament. Joan Hall ought to be commended on resigning from her position to allow Mr Peter Lewis to be elected over the favoured candidate, Kent Andrew. She has resigned her position because of a conflict of interests, and this motion to which I am speaking with great fervour calls on all those Chairmen of committees to undertake the same principled action as Joan Hall has exhibited in her new job.

Dorothy Kotz now becomes the parliamentary secretary to the Minister for Industry, Manufacturing, Small Business and Regional Development. Obviously, Dorothy was extremely disappointed when the reshuffle took place and she did not get a gong. We all know about the meeting that was held in the business premises of her partner. Obviously, she could not get a ministerial position but they had to give her a title, so she has that. Malcolm Buckby is parliamentary secretary to Minister for Health. I am amazed that Malcolm Buckby has taken this position: having knocked back the Minister for Primary Industries portfolio to take second prize as parliamentary secretary with a title is bemusing. Kent Andrew will assist the Minister for Transport. Obviously, the Minister's ride up to the Riverland with Ivan Venning has so impressed him that he wants to serve with the Minister for Transport. John Cummins we have mentioned. As for Robert Brokenshire, I heard his contribution in the House the other day. From the way he is cuddling up to the Minister for the Environment and Natural Resources I think he is actually a koala bear in disguise.

Jamie Irwin is parliamentary secretary to the Minister for Emergency Services, Wayne Matthews. I think that is an eminently sensible appointment, because they really need someone with commonsense and balance to adjust that portfolio and the problems that are being caused in that area. With his experience in emergency services and primary industries, I am certain he will make a very good parliamentary secretary. David Wade will assist Bob Such, who needs all the assistance he can get. Peter Lewis is the parliamentary secretary to the Minister for Primary Industries, Rob Kerin. This one is particularly interesting because, later on in the press release, the Minister said that everybody who was asked whether they wanted to be a parliamentary secretary accepted the position. The only problem with this is that on that date—14 March—Mr Peter Lewis was in China and did not even know he had been made a parliamentary secretary until he arrived back in Australia. That says something about the veracity of that statement. Steve Condous will assist the Minister for Housing, Urban Development and Local Government Relations. That was to be expected, with Mr Condous's background in local government and the fact that he sits out on the side and needs to be encouraged for his vote. Although I would not know how he voted in that famous vote in which Peter Lewis beat Kent Andrew, I suggest that obviously there was enough in it for them.

Those are the people who got a gong. Even more interesting are those who did not get a gong and the reasons for that. I see that Harold Allison, a distinguished member of this Parliament for many years and a former Minister for many years, was not deemed good enough to be a parliamentary secretary. For very obvious reasons, Dale Baker did not make the grade. As for Heini Becker, he is inclined to be a bit of a free spirit from time to time. Colin Caudell, the petrol man, has been left out; obviously, as the numbers man for the wet side of politics he would not get a gong. It was pretty obvious why Iain Evans did not get a job. 'Iain Evans' sounds too much like 'Stan Evans'. If you really want to put a thrill through the Premier, walk up behind him and say, 'Stan Evans' and he goes into fibrillation. Obviously, he would not get a gong. Stewart Leggett could not even organise the stack down in Morphett, so he is out. I understand that Joe Rossi made a very spirited bid for Family and Community Services but was pipped at the post and, despite having been belted into submission on the night of the long knives by prominent members of this Council, Joe Scalzi has missed out also.

Legh Davis has missed out, but does he not always? He has always missed out. Dr Pfitzner is a free spirit, but I do not know that there was anything vindictive about her not getting a gong. Angus Redford was lucky to be here; at number 6 on the Legislative Council ticket he was probably preselected as a joke, but nobody has seen the joke yet. He was obviously out. I would have tipped Caroline Schaefer to be a strong contender, and I am sure that if Dale Baker had been there she would undoubtedly be a parliamentary secretary. Every time I asked a question on primary industries, it was always interesting to see the Hon. Caroline Schaefer go scurrying out of this Chamber like Jayne Torvill straight over to report to the Minister, and I miss that. Dale Baker's demise has

obviously been the demise of the Hon. Caroline Schaefer as well.

What this has all really been about is factional infighting and trying to calm troubled waters. It has got to the stage where lawsuits are being thrown about. We all remember the night of the leak, and my colleague in another place, Mike Rann, was dragged into it when Mrs Joan Hall decided to sue the *Sunday Mail* about leaks. I must confess that many of her parliamentary colleagues were some of the people who suggested that it was Joan who had leaked. I can put on record on behalf of my colleague in another place that he was disposed to write to Joan Hall, pointing out that all this factional fighting and all this litigation was in the best interests of the Liberal Party. He said:

I understand that I will be called as a witness in this case.

He was trying to warn her against it. He said:

I am happy to appear in court. I will reaffirm my statement to Parliament that you were not the member of the Liberal Party who phoned me very late at night with information about the Liberal Party leadership problems, which continue to this day (and hence the Premier's recent appointment of a swag of parliamentary secretaries in an attempt to ease the internal tensions.)

This has obviously been brought to his attention, too. He points out:

It is likely—

The Hon. A.J. Redford interjecting:

The Hon. R.R. ROBERTS: I will come to that part; do you want me to table it? The Leader continues:

It is likely that in court I will also be asked whether or not you and I have ever spoken together about internal Liberal Party matters. If I am asked such a question I will obviously be required to answer truthfully that we have, on several occasions, discussed Liberal Party 'goings on' and Liberal factional concerns.

You will recall our discussions at Hindmarsh Stadium, at the Italian religious procession early this year, and on other occasions. I know, of course, that you would also answer such questions truthfully.

I am also likely to be asked whether or not any member of your faction ever provided the ALP with information about the leadership issue prior to the *Sunday Mail* article. Again, I would have to truthfully answer that members of both factions gave us information in an attempt to damage rival leadership bids.

You and I are both aware that you were not the person who phoned me on the night in question—

so, quite clearly, he is making clear that on that night it was not her—

but I thought I should inform you of the ramifications to you and your faction of my truthful testimony under oath. With every best wish and personal regards. I look forward to seeing you at Hindmarsh Stadium next week.

Yours sincerely, Mike Rann.

Mr President, as you can see this whole parliamentary secretary fiasco has got out of kilter. It is interesting to note where we stand with parliamentary secretaries and what it is all about. If it were a serious motion, doing this for the good of the Government, we would have more detail.

In South Australia, with 69 members of Parliament, we have 13 Ministers and 16 parliamentary secretaries. Disregarding presiding officers and Chairmen of committees, 42 per cent of MPs have got a gong. New South Wales has 142 members in its Parliament, 20 Ministers and six parliamentary secretaries—18 per cent. Victoria has 132 members, 21 Ministers and seven parliamentary secretaries—21 per cent. Even Tasmania, with 54 members, has 10 Ministers and two parliamentary assistants to Ministers, which is only 22 per cent.

Quite clearly, the introduction of parliamentary secretaries has occurred because of factional and Party reasons. Out of this there can be some good because these members, we are told, will receive constituents and represent the relevant Minister and the Government at functions. We have already seen some of this activity. The Hon. Julian Stefani has met with many groups, including the Indochinese Australian Women's Association, where he has represented the Government and himself. On a number of occasions we have invited him to answer questions. Because he is a parliamentary secretary and as he now represents members, he is entitled to answer questions. This brings me to paragraph (III) of the motion, which states:

Consequently, that this Council resolves that Questions Without Notice be permitted to parliamentary secretaries on 'any Bill, motion or other public matter connected with the business of the Council' in which the parliamentary secretaries may be specially concerned.

I have invited the Hon. Julian Stefani, on a number of occasions, in his capacity as a member of the Parliament and as the parliamentary secretary, to answer the allegations that have been put to him. Under oath, through statutory declaration, he has—

The Hon. J.F. Stefani: Why don't you ask questions outside the House and see how far you go?

The Hon. R.R. ROBERTS: He is going through the same routine, Mr President: threats and intimidation—exactly the same procedure that he applied to the Indochinese Women's Association, where he talks about defamation and bully-boy tactics. This is typical of this member of Parliament. Whilst this motion calls for a change to Standing Orders, it is pertinent for answers to be given. Standing Order 107 provides:

At the time of giving notices questions may be put to a Minister of the Crown relating to public affairs; and to other members, relating to any Bill, motion, or other public matter connected with the business of the Council, in which such members may be specially concerned.

If we apply that to the decisions and the antics that went on with the Indochinese Women's Association, we would see that here was a member of the Parliament who was at those meetings and who obviously was concerned because he was the person who had been named in statutory declarations. So, questions can be asked of any member. Standing Order 108 provides:

Whenever a question is answered after notice, it shall be open to any member to put further questions arising out of and relevant to the answer given.

Standing Order 109, with which I am certain you, Mr President, are familiar, talks about the way in which questions are framed. However, Standing Order 110 provides:

In answering any question, a member shall not debate the matter to which the same refers.

Standing Order 111 provides:

A Minister of the Crown—

and I emphasise 'a Minister of the Crown'—

may, on the ground of public interest, decline to answer a question; and may, for the same reason, give a reply to a question which when called on is not asked.

To explain the last part of that Standing Order, Standing Order 112 provides that a question called on in its order and not asked or answered shall lapse. It is quite clear that the Hon. Mr Stefani, or any other member of this Parliament, can in fact answer a question. The foregoing Standing Order makes that quite clear.

There is no facility under Standing Orders—which specifically state that a Minister may, on the ground of public interest—for other members to refuse to answer. Any member can refuse to answer a question if he so desires, but I submit that there is no constitutional reason now why parliamentary secretaries cannot answer a question. This motion proposes to make very clear that where a parliamentary secretary represents a Minister from time to time he can answer a question, so that it is clear in their mind. I assert, and the people to whom I have spoken have made very clear, that the honourable member can answer the question, and that it merely involves his desiring to answer the question.

The Hon. J.F. Stefani interjecting:

The Hon. R.R. ROBERTS: It is not my opinion; it is what the Standing Orders provide.

The Hon. J.F. Stefani: Standing Orders have been well interpreted by others who know, and I will worry about what they say rather than what you say.

The Hon. R.R. ROBERTS: The Hon. Mr Stefani can answer the question: all it takes is gumption. You cannot threaten us like you did with those women. So, for all those reasons, it is quite clear that this proposal by the Government to introduce the system of parliamentary secretaries still has to be tested.

I notice, in the research that has been done, that whilst other Parliaments do not receive extra remuneration they do get out-of-pocket expenses. I would be interested to know whether that system will or does apply in South Australia and what will be the situation in the future. If a parliamentary secretary is to represent a Minister somewhere, will those travelling expenses be paid by the member out of his travel allowance, as all of us mere backbenchers have to do, or will those travelling and out-of-pocket expenses be picked up by the department of which the Minister is in charge?

I put the Government on notice because it may wish, in its response to this very sensible motion by the Hon. Paul Holloway, to come back with an emphatic answer as to the conditions applying to parliamentary secretaries and what expenses, including travelling expenses, they can claim when representing a Minister. I have great pleasure in supporting the motion.

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

STATUTES AMENDMENT (SENTENCING OF YOUNG OFFENDERS) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Children's Protection Act 1993, the Criminal Law (Sentencing) Act 1988, the Family and Community Services Act 1972, the Young Offenders Act 1993 and the Youth Court Act 1993. Read a first time.

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

That this Bill be now read a second time.

As we will not deal with this Bill until the budget period of this session, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The *Young Offenders Act, 1993* and the *Youth Court Act, 1993* came into operation on the 1st January, 1994. These Acts (together with the *Children's Protection Act, 1993*) replaced the *Children's Protection and Young Offenders Act, 1979*. The new Acts introduced substantial changes to both the philosophy and structure of juvenile justice in South Australia. When first introduced the *Children's Protection and Young Offenders Act, 1979* was regarded as highly innovative. However, by the late 1980s, there was a growing perception that it had failed to keep pace with the changing needs and circumstances of young offenders and with community expectations. The pressure for change led to the establishment of a Select Committee in August, 1991 to inquire into all aspects of the juvenile justice system. The Select Committee sat for over 12 months and took evidence from a wide range of government and non-government organisations and individuals. The Select Committee's interim report, which was published in November, 1992 recommended a new approach to juvenile justice in South Australia. The Committee's recommendations formed the basis of the legislation which put the new system in place. The new system is a three tiered system. There is a two tiered system of pre-court diversion—police cautioning and family conferencing. The third tier is the Youth Court presided over by a Senior Judge of District Court status.

The operation of the new system is being evaluated by the Juvenile Justice Advisory Committee. The Committee's evaluation will be completed in the near future but in the meantime experience has shown that some amendments are needed to improve the operation of the legislation.

I do not wish to pre-empt the Juvenile Justice Advisory Committee's report but I understand that the Committee's report will be to the effect that the new system is working relatively well. Police officers are strongly supportive of formal and informal cautioning and there is general support for police cautioning. Family conferencing appears to be successful and there is a perception that delays have been reduced in the Youth Court and that long term recidivists are being held more accountable for their behaviour. Some problems have been identified and strategies are being devised to address them.

The bulk of the amendments in this bill relate to the sentencing of young offenders but other matters are included as well, including some pure drafting amendments.

Children's Protection Act, 1993

The amendment to the *Children's Protection Act* does not relate to young offenders but the opportunity has been taken to remedy a problem with the Act.

Section 21(3) of the *Children's Protection Act, 1993* requires applications for extensions of investigation and assessment orders to be heard by the Senior Judge. These applications can be brought at short notice when the Senior Judge may be on circuit, on leave, ill or out of the State. The amendment provides that if the Senior Judge is not reasonably available to exercise a power vested in the Senior Judge under the Act, the most senior of the Judges of the Court who is available may exercise the power.

Criminal Law (Sentencing) Act, 1988

These amendments change the way the *Criminal Law (Sentencing) Act* applies to young offenders. The repealed *Children's Protection and Young Offenders Act* contained a code for the sentencing of young offenders. The new *Young Offenders Act* does not. The bulk of the provisions for the sentencing of young offenders are to be found in the *Criminal Law (Sentencing) Act*. The provisions of the *Criminal Law (Sentencing) Act* which apply to young offenders are those which are specifically stated to apply. This has proved to be confusing and sections which should apply have been overlooked. These amendments apply the whole of the *Criminal Law (Sentencing) Act* to the sentencing of young offenders, except where a provision is expressed not to apply. The limitations on a court's power to sentence young offenders in Part 3, Division 3 of the *Young Offenders Act* continue to apply to the sentencing of young offenders.

The amendments to the *Criminal Law (Sentencing) Act* do not change policy. Members attention is, however, drawn to new section 61AA. Section 23(5) of the *Young Offenders Act* provides that a court may sentence a youth to detention for non-payment of a fine or other monetary sum. The court's power to sentence to detention is subject to the qualifications that the court may only order detention after the default has been established in proceedings before the court of which the child has been given notice and the detention ordered should be on a periodic non-residential basis unless the child requests residential detention or there are in the court's opinion other special reasons for imposing residential detention. It is not clear what was intended by periodic non-residential detention and it has been taken to mean community service. New section 61AA makes it clear that young offenders who default in the payment of a pecuniary sum can be ordered to perform community service.

New section 61AA goes on to provide that where a youth has defaulted in performing community service under an undertaking

under section 67 the court may, instead of ordering community service, sentence the youth to detention. Section 67 is the section under which offenders may apply to work off pecuniary sums by undertaking community service if the payment of the pecuniary sum would cause severe hardship.

Where a youth performs community service under an undertaking under section 67 the amount outstanding is reduced by $100 for each eight hours of community service completed by the youth. However, where the court orders community service under new section 61AA the amount outstanding is reduced by only $50 for each eight hours of community service completed by the youth. This is the rate which also applies if the youth defaults on an undertaking under section 67. These different rates are consistent with the provisions which apply to adult offenders. An adult offender who defaults in the payment of a pecuniary sum and performs community under section 67 works the amount off at $100 for each eight hours work completed. However, if the adult offender does not pay, and does not work the amount off under section 67, he or she is imprisoned for a period of one day of detention for each $50.

Family and Community Services Act, 1972

Section 96 of the repealed *Children's Protection and Young Offenders Act, 1979* provided that the Minister could delegate his or her powers, duties, responsibilities and functions to the Director-General and that the Director-General could delegate his or her powers, duties, responsibilities and functions to an officer of the Department. No such power of delegation is contained in the *Young Offenders Act* and this is causing difficulties in the administration of the Act. Recently in the case of *Campbell* an application to transfer a youth to a prison had been prepared and signed by the Manager of the Cavan Centre. The Court found the Manager did not have a valid delegation from the Director-General and indicated that it was by no means satisfied that the power was in any event delegable. There are many provisions in the *Criminal Law (Sentencing) Act* and the *Young Offenders Act* where it is not practicable or necessary for the Minister or Director-General personally to perform a function or exercise a power and the insertion of a power of delegation by both the Minister and the Chief Executive Officer in the Act similar to section 96 of the *Children's Protection and Young Offenders Act* will assist in the administration of the Act.

Young Offenders Act, 1993

Section 3(2) of the *Young Offenders Act* provides that the powers conferred by the Act are to be directed to ensuring three factors: first, the need to make the young offender aware of his or her obligations under the law; second, the need to protect the community and individual members of it against the violent and wrongful acts of the young offender; and third, the need to impose sanctions which are sufficiently severe to provide an appropriate level of deterrence.

The Full Supreme Court in March 1995 in *Schultz v Sparks* held that the notion of deterrence referred to in section 3(2) must be confined to the deterrent effect of any punishment on the offender. It does not encompass the deterrence of other persons. The Court held that the sentencing process must be directed to the object, set out in section 3(1) of the Act, of securing for the young offender the care, correction and guidance necessary for his or her development into a responsible and useful member of the community and the proper realisation of his or her potential.

This decision appears at odds with the intention of Parliament. It seems from the second reading speeches and debate on the *Young Offenders Bill* that it was intended that the notion of general deterrence should apply in the sentencing of young offenders and this was supported by Members on both sides of the Parliament. Section 3(2) is amended to better reflect the intention of Parliament and to restore, in part, what was thought to be the position before the decision in *Schultz v Sparks*. The amendment applies the notion of general deterrence to the sentencing of young offenders as adults and in other cases where the court thinks it appropriate.

The Government is of the view that the courts, when sentencing young offenders who have been dealt with as adults, must have regard to the effect of the sentence on the young offender and on other persons. This was the position under the *Children's Protection and Young Offenders Act* from 1990 until the repeal of the Act in 1993. The Government is, however, of the view that general deterrence should not apply to all youths who are sentenced as young offenders. The majority of young offenders do not reoffend. General deterrence would be most likely to affect first-time or relatively light offenders who commit a serious offence but who are unlikely to reoffend. Those serious offenders for whom general deterrence is appropriate can be tried and sentenced as adults where general deterrence is to be taken into account in sentencing. However, there may be circumstances where it is appropriate for a court when sentencing a youth as a young offender for a court to take general deterrence into account when fixing the sentence.

General deterrence is not a factor to be taken into account by police when cautioning an offender or by a family conference. The essentially consensual undertakings entered into by young offenders with the police and family conference respectively do not leave room for any notion of general deterrence.

The *Young Offenders Act 1993* provides that the Youth Court deals with a charge in the same way as the Magistrates Court deals with a charge of a summary offence, the procedure to be followed is the same as the procedure in the Magistrates Court and the Court's sentencing powers, where an offence is a summary offence, are the same as the Magistrates Court.

It is not clear that the Youth Court has the powers of the Magistrates Court to, for example, award costs or to stay proceedings which are an abuse of process. Amendments to sections 17, 18 and 19 make it clear that the Youth Court has all the powers of the Magistrates Court when dealing with a charge and conducting a preliminary examination.

Section 26 provides that the court may not require a youth to enter into a bond but it may impose on the youth obligations of the kind that might otherwise have been imposed under a bond. Section 26(3) gives examples of the obligations which a court may impose. Section 26(3) is amended to make it clear that an obligation can be imposed to perform work other than in a recognised community service program. A young offender may, for example, be required to perform work for a victim of the crime.

Problems arise when young offenders who are serving a period of detention are sentenced to a term of imprisonment for offences committed after turning 18 years. The order of the Youth Court is that the youth serve the period of detention in a Training Centre and the order of the adult court is that the offender serve the sentence of imprisonment in a prison. Section 36 is amended to provide that in these circumstances the offender must be transferred to prison unless the sentencing court directs otherwise.

Section 23(2)(b) provides that the Youth Court can sentence a youth to home detention for a period not exceeding six months, or for periods not exceeding six months in aggregate over one year or less. There are no provisions in the Act for the Court to impose conditions on home detention, to vary conditions or to provide a system of monitoring home detention. To make home detention work these matters need to be spelt out in the Act and a new Division, Division 2A of Part 5 contains these matters. The matters contained in the new Division are similar to the home detention provisions in the *Correctional Services Act, 1982*. The court is given power to revoke a home detention order if the court is satisfied that a youth has breached a condition of the home detention order or there is no suitable residence available.

Home detention is also relevant to conditional release by the Training Centre Review Board. Under section 41(2) the Training Centre Review Board can, at any time after a youth has completed at least two-thirds of his or her period of detention, order the release of the youth subject to conditions. The Board may wish to release the youth on home detention. The Act does not provide for a system of monitoring of home detention ordered by the Training Centre Review Board. It will facilitate the release of youths on home detention if a system of monitoring is spelt out in the Act and this is done by amendments to section 41.

Section 38 of the Act is amended in three ways. Firstly, the Minister for Police is substituted for the Minister for Emergency Services as the Minister who is who is to appoint two police officers to the Training Centre Review Board. This recognises the change in Ministerial responsibilities which have occurred. Secondly, the membership of the Training Centre Review Board is expanded to include two Aboriginal persons with appropriate skills. Thirdly,the section is amended to provide members of the Training Centre Review Board with immunity from liability for acts or omissions done in good faith and in the exercise or discharge or purported discharge of the member's or the Board's powers or functions. This is the usual immunity provision for members of boards and such like.

Section 40 provides that the Director-General may grant a youth detained in a training centre leave of absence from the training centre to, *inter alia*, attend educational or training courses. It is made clear that the Director-General can grant youths leave of absence to attend work camps, work programs and similar. Work programs in National Parks or Operation Flinders do not strictly fall within the description educational or training courses.

Under the repealed *Children's Protection and Young Offenders Act, 1979* a court could not order a period of detention of less than two months. The court can now order sentences of detention of less than two months and is ordering sentences of detention ranging from days to weeks. It is difficult for the Training Centre Review Board to give consideration to conditional release where sentences of detention are less than two months.

Where the Court orders a youth to serve a short period of detention it is unlikely that the Court would contemplate the youth being granted conditional release. The *Criminal Law (Sentencing) Act, 1988* provides that prisoners serving sentences of imprisonment of less than one year are not eligible for parole. A similar type provision that youths serving short periods of detention are not eligible for conditional release has been included in section 41. It is provided that a youth serving a sentence of detention of less than two months is not eligible for conditional release. Where a youth has breached a condition of his or her release he or she may be arrested and held in detention until the Board can deal with the matter. There is no capacity for the Board to backdate the commencement of the further period of detention to the time when the youth has been returned to detention. New section 41(14) allows the Board to take into account any period of detention spent in custody when making its further order.

Section 41 is also amended to allow the Training Centre Review Board to deal with breaches of conditions by a youth on conditional release from detention, which are not of serious concern to it, by other than returning the youth to detention. The Parole Board can deal with minor breaches of parole conditions by requiring a person to serve a specified number of hours of community service. The Training Centre Review Board is given, in new subsection (15), a similar power in relation to youths.

Division 5 Part 6 of the Act deals with community service. The heading of the part has been expanded to include other work related orders and section 49(1) has been amended to provide that no order, direction or requirement can be made by which a youth will be required to perform community service or participate in a particular work project, program or camp unless there is, or will be within a reasonable time, a suitable placement for the youth in a community service program, or the work project, program or camp.

New section 49A sets out the parameters within which community service or other work is to be performed. The youth cannot be required to work at a time which would disrupt his or her education, cause unreasonable disruption to his or her commitments to dependants or offend against his or her religious beliefs. And there are limits on the hours the youth can be required to work. These parameters are similar to those which apply to community service undertaken by adults.

Section 56 requires the Juvenile Justice Advisory Committee to report to the Attorney-General, not later that the 30th September in each year, on the administration and operation of the Act during the previous financial year. This means that the Committee has only three months from the close of data on 30th June to finalise its report. Experience with producing the 1995 report indicates that this time frame does not allow appropriate data quality checking and evaluation. A more realistic date for the Committee to report is not later than the 31st December in each year.

There is no provision in the Act, as there is under the *Correctional Services Act, 1982* in relation to adult prisoners, that employees of the Department for Family and Community Services may, without warrant, apprehend a youth whom the employee suspects on reasonable grounds of having escaped from detention or being otherwise unlawfully at large. It is useful for Departmental officers to be able to apprehend youths who escape from detention, particularly where the officers observe the escape. Departmental officers had this power under section 75 of the *Community Welfare Act, 1972* which has been repealed. The new provision provides, as does section 52(2) of the *Correctional Services Act*, that an employee of the Department who has apprehended a youth under the provision must return the youth forthwith to a place of detention.

Youth Court Act, 1993

Section 7(c) of the Act gives the Youth Court jurisdiction to make summary protection orders under the *Summary Procedure Act, 1921*. The section is amended to clarify that the Youth Court also has power to make domestic violence restraining orders under the *Domestic Violence Act, 1994*. At the same time the reference to a summary protection order is changed to a restraining order, as these orders are now called.

A new section 10(4) is inserted. Section 11(2) provides that the Chief Judge is responsible for the administration of the Court. This leaves the effect of certain provisions of the *Magistrates Act, 1983* unclear. Part 5 of the *Magistrates Act* provides for leave for magistrates and for the Chief Magistrate to approve leave and direct magistrates to take leave. Section 8 of the Act provides that a magistrate is subject to direction by the Chief Magistrate as to the duties to be performed and the times and places at which those duties are to be performed. When a magistrate has been designated as a member of the Youth Court's principal judiciary, it is not appropriate for the Chief Magistrate to be responsible for deciding when the magistrate should take leave or to be giving other directions to the magistrate. New section 10(4) makes it clear that the Senior Judge has these responsibilities.

Section 32(2) of the Act provides that rules of court may be made by the Judges and Magistrates of the Court. The Judges and Magistrates of the Court comprise both the principal and ancillary members of the Court. It is appropriate that the rules of court should be made by the Judges and Magistrates who are specially appointed as full time members of the Court and section 32 is amended accordingly.

Explanation of Clauses

PART 1 PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

The clauses in Part 1 are formal provisions.

PART 2 AMENDMENT OF CHILDREN'S PROTECTION ACT 1993

Clause 4: Amendment of s. 6—Interpretation

The definition of Senior Judge is amended so that if the Senior Judge is not available to exercise powers vested in the Senior Judge under the *Children's Protection Act 1993*, the powers may be exercised by the most senior of the Judges who is available.

PART 3 AMENDMENT OF CRIMINAL LAW (SENTENCING) ACT 1988

Clause 5: Amendment of s. 3—Interpretation

The Bill introduces a system for payment of a pecuniary penalty by a youth to be enforced by an order for community service (see new section 61AA). The definition of prescribed unit is amended to impose a rate at which the penalty is worked off in community service for that purpose, namely, $50 per 8 hours community service. The rate of $100 per 8 hours community service is retained (and applied to both adults and youths) where an order for community service is made because payment of the pecuniary sum would cause severe hardship. The amendment also provides for the rate at which detention or home detention may be imposed for default by a youth in payment of a pecuniary penalty (where a previous community service order has been contravened), namely, $50 per day of detention. This is the same rate as that applying to adults in relation to imprisonment.

The definition of probative court is amended to make it clear that where an appellate court imposes a bond the probative court for the purposes of the Act is not the appellate court but the original court that imposed the sentence. The probative court is the court that deals with variations of the bond or breach of the bond.

Clause 6: Insertion of s. 3A—Application of Act to youths

This clause inserts a new section reversing the current approach to the interaction between the *Criminal Law (Sentencing) Act 1988* and the *Young Offenders Act 1993*.

The current approach is that the *Criminal Law (Sentencing) Act* contains a number of specific provisions that convert expressions in certain sections or Parts to expressions suitable to youths. This can lead to confusion as to the application of other sections in relation to youths.

New section 3A instead states that the *Criminal Law (Sentencing) Act* applies in relation to sentencing of a youth and the enforcement of a sentence against a youth except where its application is specifically excluded. For that purpose, the section converts (in the one place) expressions used throughout the Act to expressions suitable to youths. If there are any inconsistencies between the *Criminal Law (Sentencing) Act* and the *Young Offenders Act* or the *Youth Court Act*, the new section states that those latter Acts prevail.

The Bill contains provisions excluding youths from the application of specific provisions of the *Criminal Law (Sentencing) Act* as follows:

- the power to impose cumulative sentences under section 31 is not to apply in relation to a youth unless the youth is sentenced as an adult;

- the fixing of non-parole periods under Part 3 Division 2 is not to apply in relation to a youth unless the youth is sentenced as an adult;
- the detailed provisions regulating the performance of community service in section 47 are not to apply to the performance of community service by a youth (special provisions are contained in the amendments to the *Young Offenders Act*);
- the power to imprison a person in default of payment under section 61 is not to apply to a youth (a special provision about community service or detention in default of payment by a youth is to be inserted: section 61AA).

As a consequence of the above approach the Bill removes the current provisions scattered throughout the Act that apply parts of the Act to youths subject to specified modifications (namely, sections 44A, 59AA, 61(6), 67(18), 69(7), 71(8) and 71A(5)).

Clause 7: Amendment of s. 11—Imprisonment not to be imposed in certain circumstances

This amendment is of a housekeeping nature and makes it clear that the criteria of which a court must be satisfied before imposing a sentence of imprisonment do not apply to the imposition of a sentence of imprisonment for the enforcement of another sentence.

Clause 8: Amendment of s. 19—Limitations on sentencing powers of Magistrates Court

This clause converts references to divisional penalties according to current government policy.

Clause 9: Amendment of s. 19A—Restraining orders may be issued on finding of guilt or sentencing

This clause is of a housekeeping nature and updates the references to restraining orders to ensure that domestic violence restraining orders are included.

Clause 10: Amendment of s. 23—Offenders incapable of controlling sexual instincts

Clause 11: Amendment of s. 27—Service on guardian

These clauses make the language of the Act consistent with the language of the *Young Offenders Act* and the *Youth Court Act* by referring to 'youths' rather than 'children'.

Clause 12: Amendment of s. 31—Cumulative sentences

Clause 13: Insertion of s. 31A—Application of Division to youths

While Part 3 (Imprisonment) is generally to apply to youths as if references to imprisonment were references to detention—

- the amendment to section 31 provides that the power to impose cumulative sentences does not apply in relation to a youth unless the youth is sentenced as an adult; and
- the amendment to section 31A provides that the fixing of non-parole periods under Part 3 Division 2 does not apply in relation to a youth unless the youth is sentenced as an adult.

Clause 14: Amendment of s. 34—Maximum fine where no other maximum provided

This clause converts references to divisional penalties according to current government policy.

Clause 15: Amendment of heading

This clause strikes out an obsolete reference to undertakings.

Clause 16: Repeal of s. 44A

Section 44A currently applies Part 5 of the Act (Bonds) to youths subject to specified modifications and is consequently repealed.

Clause 17: Amendment of s. 45—Notification of court if suitable community service placement is not available

The amendments contained in this clause replace references to a court sentencing a defendant to community service with references to a court making an order for community service. This reflects a later amendment providing that a court may order community service as a means of enforcement of an order for payment of a pecuniary sum made against a youth.

Clause 18: Amendment of s. 47—Special provisions relating to community service

While Part 6 (Community Service and Supervision) is generally to apply to youths, the insertion of section 47(2) excludes youths from the application of the detailed rules for community service relating to the length of service, reporting requirements, meal breaks etc. Special rules for youths are inserted in the *Young Offenders Act*.

The other amendments are of a technical drafting nature.

Clause 19: Amendment of s. 49—CEO must assign a probation officer or community service officer

This amendment removes reference to the order for community service being made by a court in recognition of the fact that such orders may be made not only by a court but also by the Parole Board and the Training Centre Review Board.

Clause 20: Amendment of s. 51—Power of Minister in relation to default in performance of community service

This amendment is consequential to the application of Part 6 (Community Service and Supervision) to youths. If a person fails to comply with a requirement to perform community service, section 51 allows the Minister to impose a further community service requirement of up to 24 hours even if that increase would take the total requirement beyond the normal limit. Subsection (3) expressly refers to the adult limit of 320 hours. This is removed so that the reference to the normal limit will also include the limit that applies to youths of 500 hours.

Clause 21: Repeal of s. 59AA

Section 59AA currently applies Part 9 Division 2 of the Act (Enforcement of Bonds) to youths subject to specified modifications and is consequently repealed.

Clause 22: Amendment of s. 61—Imprisonment in default of payment

Clause 23: Insertion of s. 61AA—Community service in default of payment by a youth

Clause 24: Amendment of s. 66—Ex-parte orders

While Part 9 of the Act (Enforcement of Sentence) is to apply to youths, the amendment to section 61 provides that the power to imprison a person in default of payment does not to apply to a youth.

New section 61AA is a special provision allowing an order for community service to be made in default of payment of a pecuniary penalty by a youth. The ability to sentence a youth to detention or home detention will apply only if community service has previously been allowed on the basis of hardship and the youth has failed to comply with the undertaking.

The amendment to section 66 allows for an order for community service made for the purposes of enforcement to be made without hearing the youth in default.

Clause 25: Amendment of s. 67—Pecuniary sum may be worked off by community service

Clause 26: Amendment of s. 69—Amount in default is reduced by imprisonment served

Clause 27: Amendment of s. 71—Community service orders may be enforced by imprisonment

Clause 28: Amendment of s. 71A—Other non-pecuniary orders may be enforced by imprisonment

The amendment to section 67(5) removes the restriction relating to there having to be a placement before community service can be allowed—this restriction is no longer to apply in respect of adults but will, by virtue of a provision in the *Young Offenders Act*, continue to apply in relation to youths.

Section 67(18), 69(7) and 71(8) and 71A(5) apply the respective sections to youths subject to specified modifications and those subsections are consequently removed.

PART 4 AMENDMENT OF FAMILY AND COMMUNITY SERVICES ACT 1972

Clause 29: Amendment of s. 8—Delegation

These amendments will allow the Minister and the Chief Executive to delegate functions and powers under other Acts (*eg* the *Young Offenders Act 1993*).

PART 5 AMENDMENT OF THE YOUNG OFFENDERS ACT 1993

Clause 30: Amendment of s. 3—Objects and statutory policies

This amendment imposes an obligation on a court in sentencing youths in certain circumstances to have proper regard to the policy that the sanctions imposed against illegal conduct must be sufficiently severe to provide an appropriate level of deterrence for not only the youth in question but other youths. A court must take general deterrence into account when sentencing a youth as an adult, and may take general deterrence into account in such other cases as the court thinks appropriate.

Clause 31: Amendment of s. 4—Interpretation

The amendment striking out the definition of Director-General and inserting a definition of Chief Executive is of a housekeeping nature and reflects current public sector terminology.

The insertion of a definition of a home detention officer is consequential to a later amendment providing for monitoring of home detention.

Clause 32: Amendment of s. 13—Limitation on publicity

This clause converts references to divisional penalties according to current government policy.

Clause 33: Amendment of s. 15—How youth is to be dealt with if not granted bail

This amendment is of a housekeeping nature and reflects current public sector terminology.

Clause 34: Amendment of s. 17—Proceedings on the charge

Clause 35: Amendment of s. 18—Procedure on trial of offences

Clause 36: Amendment of s. 19—Committal for trial
These amendments make it clear that the Youth Court has all the powers of the Magistrates Court when dealing with a charge and conducting a preliminary examination.

Clause 37: Amendment of s. 23—Limitation on power to impose custodial sentence
This amendment is consequential to a later amendment providing for home detention and requires the Court to be satisfied that the relevant accommodation, and the means to monitor the order, are available before making an order for home detention.

Clause 38: Amendment of s. 24—Limitation on power to impose fine
This clause converts references to divisional penalties according to current government policy.

Clause 39: Amendment of s. 25—Limitation on power to require community service
The amendment limits the Court's power to require community service to requiring it over a maximum period of 18 months. This is equivalent to the limitation that applies in the adult system.

Clause 40: Amendment of s. 26—Limitation on Court's power to require bond
The amendment to subsection (3) makes it clear that the obligations that may be imposed on a youth include an obligation to carry out specified work for the victim or for any other person or body.

The amendment to subsection (4) converts references to divisional penalties according to current government policy.

Clause 41: Amendment of s. 28—Power to disqualify from holding driver's licence
This amendment is of a housekeeping nature and converts a reference to a court of summary jurisdiction to a reference to the Magistrates Court.

Clause 42: Amendment of s. 30—Court to explain proceedings etc.
This clause makes the language of the section consistent with the language of the *Young Offenders Act* and the *Youth Court Act* by referring to "youths" rather than 'children'.

Clause 43: Amendment of s. 32—Reports
This amendment is of a housekeeping nature and reflects current public sector terminology.

Clause 44: Amendment of s. 34—Attendance at court of guardian of youth charged with offence
This clause converts references to divisional penalties according to current government policy.

Clause 45: Amendment of s. 36—Detention of youth sentenced as an adult
New subsection (2a) provides that a youth detained in a training centre must (unless the sentencing court directs otherwise) be transferred to a prison to serve any sentence of imprisonment imposed in relation to an offence committed after the youth turned 18.

Clause 46: Amendment of s. 37—Release on licence of youths convicted of murder
This amendment is of a housekeeping nature and reflects current public sector terminology.

Clause 47: Insertion of Division 2A—HOME DETENTION
The Court can currently impose home detention under section 23(2)*(b)*. The new Division includes necessary administrative provisions to enable the home detention system to work effectively.

37A. Conditions of home detention
This section imposes conditions on home detention setting out the circumstances in which the youth may leave the home, requiring the youth to be of good behaviour and requiring the youth to obey the lawful directions of the home detention officer. The section also allows the Court to impose other conditions at its discretion.

37B. Home detention officers
This section requires a home detention officer to be assigned and enables the officer to give the youth certain types of directions and to take certain action to monitor compliance with the home detention order by the youth.

37C. Variation or revocation of home detention order
This section allows for variation or revocation of a home detention order if the youth breaches the conditions of the order or the home is no longer suitable.

37D. General provisions
This section makes it clear that the Crown is not liable to maintain a youth in home detention and that the youth is to be regarded as unlawfully at large if the youth leaves the home unlawfully.

Clause 48: Amendment of s. 38—The Training Centre Review Board
The amendment to subsection (2)*(d)* is of a housekeeping nature and reflects current Ministerial responsibilities.

The clause also adds two new members to the Board—two Aboriginal persons nominated by the Minister for Aboriginal Affairs. If an Aboriginal youth is the subject of the review, the Board must include at least one of the Aboriginal members.

The insertion of subsections (6a) and (6b) provides indemnity for members of the Board from civil liability.

Clause 49: Amendment of s. 39—Review of detention by Board
This amendment is of a housekeeping nature and reflects current public sector terminology.

Clause 50: Amendment of s. 40—Leave of absence
The amendment to subsection (1)*(b)* enables the Chief Executive to grant leave of absence from a training centre for attendance at a personal development program or a work program, project or camp as well as for an educational or training course.

The other amendments are of a housekeeping nature and reflect current public sector terminology.

Clause 51: Amendment of s. 41—Conditional release from detention
The amendment to subsection (3) provides that the Training Centre Review Board cannot order the early release of a youth who is serving a sentence of detention of less than 2 months.

New subsection (5a) allows the Training Centre Review Board to release a youth on home detention on similar terms to the Court ordering home detention.

New subsection (14) provides that if a youth is taken into custody pending proceedings for breach of a condition of release and following those proceedings is required to serve the balance of the original sentence of detention, the period spent in custody is to count towards the balance of the period of detention.

New subsection (15) enables the Board to order community service as a penalty for a breach of a condition of release that is not so serious as to warrant returning the youth to detention.

Clause 52: Amendment of s. 42—Absolute release from detention by Court
This amendment is of a housekeeping nature and reflects current public sector terminology.

Clause 53: Amendment of s. 48—Escape from custody
This amendment excludes a youth serving a sentence of home detention from the application of the section. (A youth who leaves a home contrary to a home detention order is unlawfully at large under new section 37D and the contravention is to be dealt with as a breach of condition enabling revocation of the order.)

Clause 54: Amendment of heading
The heading to Part 6 is altered to reflect the following amendments that extend the application of the rules relating to community service to other work related orders.

Clause 55: Amendment of s. 49—Community service and work orders cannot be imposed unless there is a placement for the youth
Subsection (1) currently prevents community service being ordered unless a suitable placement is or soon will be available. The amendment imposes a similar requirement with respect to any work project, program or camp.

Clause 56: Insertion of s. 49A—Restrictions on performance of community service and other work orders
New section 49A imposes reasonable restrictions on the performance of community service similar to the restrictions that apply under the *Criminal Law (Sentencing) Act 1988* in the adult system.

Clause 57: Amendment of s. 50—Insurance cover for youths performing community service or other work orders
The amendments extend the provisions relating to insurance for community service work to other forms of work.

Clause 58: Amendment of s. 51—Community service or other work orders may only involve certain kinds of work
The amendment requires any work ordered to be undertaken under the Act to be of the nature of work that may be selected for community service.

Clause 59: Amendment of s. 56—Reports
The amendment alters the date for the Advisory Committee's annual report from 30 September to 31 December.

Clause 60: Amendment of s. 59—Detention and search by officers of Department
This amendment is of a housekeeping nature and reflects current public sector terminology.

Clause 61: Insertion of s. 59A—Power of arrest by officers of the Department

New section 59A enables officers of the Department to arrest youths who are unlawfully at large. The power is similar to that which used to be provided by section 75 of the *Community Welfare Act 1972*.

Clause 62: Amendment of s. 60—Hindering an officer of the Department

This clause converts references to divisional penalties according to current government policy.

Clause 63: Amendment of s. 63—Transfer of youths in detention to other training centre or prison

This clause is of a housekeeping nature and reflects current public sector terminology.

Clause 64: Amendment of s. 65—Regulations

This clause converts references to divisional penalties according to current government policy.

PART 6 AMENDMENT OF YOUTH COURT ACT 1993

Clause 65: Amendment of s. 7—Jurisdiction

This clause is of a housekeeping nature and updates the references to summary protection orders to references to restraining orders and domestic violence restraining orders.

Clause 66: Amendment of s. 10—The Senior Judge

This amendment makes it clear that the Senior Judge has all of the powers of the Chief Magistrate in relation to a Magistrate who is a member of the Court's principal judiciary.

Clause 67: Amendment of s. 25—Restrictions on reports of proceedings

Clause 68: Amendment of s. 28—Punishment of contempt

These clauses convert references to divisional penalties according to current government policy.

Clause 69: Amendment of s. 32—Rules of Court

This amendment requires the Judges and Magistrates who make Rules of Court to be members of the principal judiciary of the Court.

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

STAMP DUTIES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 April. Page 1272.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. The Bill has been dealt with in detail in another place, so I do not wish to take up the time of the Council to go into any great detail. I simply note that the first three amendments aim at closing tax loopholes and attacking tax avoiders, and we fully support these measures.

In relation to the amendment to stamp duty payable on foreign security transactions, I note that this is a necessary technical amendment to keep up with the changes in the clearing system used by the Stock Exchange. Finally, the Opposition agrees that amendments to the Stamp Duties Act are necessary following the recent changes in the Commonwealth legislation in relation to certain superannuation funds. We support the Bill.

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

COMMUNITY TITLES BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1. Clause 75, page 57, line 19—Leave out 'in investments of a kind prescribed by regulation' and insert 'in the same manner and subject to the same requirements as a trustee investing trust funds under the *Trustee Act 1936*'.

No. 2. Clause 76, page 58, line 6—Leave out 'four' and insert 'ten'.

No. 3. Clause 76, page 58, line 6—Leave out 'five' and insert 'eleven'.

No. 4. Clause 94, page 67, lines 15 and 16—Leave out 'is given to every member of the committee by the secretary' and insert 'is served on every member of the committee'.

No. 5. Clause 94, page 67, line 17—Leave out 'is sent' and insert 'is served on all members of the committee'.

No. 6. New clause, page 93, after line 17—Insert new clause as follows:

Stamp duty not payable in certain circumstances

150. Duty is not payable under the *Stamp Duties Act 1923*—

(a) in respect of the vesting of common property on the amalgamation of community plans under Part 7 Division 2; or

(b) in respect of the vesting of property on the dissolution of a community corporation under Part 7 Division 2 or 3; or

(c) in respect of the vesting of land in the owners of the community lots when the land becomes common property on its inclusion in the community parcel under section 112(2).

No. 7. Schedule 1, page 96, after line 18—Insert paragraph as follows:

(ba) the common property vests in the owners of the lots but duty is not payable under the *Stamp Duties Act 1923* in respect of that vesting.

Amendment No. 1:

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

That the House of Assembly's amendment No. 1 be agreed to.

The requirement that money belonging to a community corporation be invested in investments prescribed by regulation was the result of an amendment moved by the Australian Democrats in the Legislative Council. I took the view that that was inappropriate, but in the House of Assembly there has been an alternative amendment. The amendment is to require the investment of money by trustees generally to be the criterion which should apply in this situation. I do not think that there should be a long list of investments prescribed by regulation applicable only to community corporations. That was the view I expressed when I opposed the amendment in the Council, but I am prepared to acknowledge a compromise that will enable a community corporation to invest any of its money which belongs to the unit owners or the title holders in investments authorised for investment by trustees.

The 'prudential investor' criterion is the criterion which applies to investment of any trust moneys. It is very broad, it is not restrictive, but does place obligations upon the corporation in terms of managing the investments. I do not expect that this will be a large amount of money—it may be in some instances—but if we prescribe that form of investment that will meet the concerns which I had that Government should not be seeking to prescribe a long list of investments which in some way would give the impression that they had the imprimatur of Government. That would require diligence on the part of Government to assess and to approve such investments.

The Hon. ANNE LEVY: I support this amendment from the other place. The original concern was that any investments must be prudent and that the officers of the corporation should not throw money around in an imprudent manner, money which belongs to the unit holders, and that there should be some restrictions on the type of investments they could undertake. What has been suggested by the other House certainly removes any responsibility from the Government in deciding what is or is not a prudent investment. I have no objection to that, but it is bringing a note of caution that the officers of the corporation must treat other people's money with due circumspection and that they would be under the same requirements as trustees under the Trustee Act when it comes to investing money and, as they are acting as trustees for the money of the corporation, that seems highly desirable.

Motion carried.

Amendments Nos 2 and 3:

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

That the House of Assembly's amendments Nos 2 and 3 be agreed to.

The amendments result from a Democrat amendment. Under that amendment, made in the Council, the offices of presiding officer, treasurer and secretary of the community corporation can be held by one person in a small scheme. The amendment fixed that at four or less community lots. In the Government's opinion this figure is too low. We have taken the view that 10 is probably an appropriate cut-off, so below 10 the offices to which I have referred can be held by one person. Over 10, they have to be held by other individuals and not all by the one person.

The Hon. ANNE LEVY: I am happy to support this amendment. The principle is important that, where there is a very large number of community lots and the officers of the corporation are representing a very large number of unit holders, all the offices should not be held by the one person. In a small scheme, where the number of units is not large, there is no reason at all why one person could not fulfil the functions of all the offices. It is probably arbitrary as to where one draws the line. The Legislative Council has suggested four, but if the Government is happy with 10 I do not feel it necessary to have a great argument about what the number should be. What is important is the principle, that where there is a large number the one person should not hold all these positions. So, I am happy to accept amendments Nos 2 and 3.

Motion carried.

Amendments Nos 4 and 5:

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

That the House of Assembly's amendments Nos 4 and 5 be agreed to.

The Australian Democrats moved an amendment which left an inconsistency between clause 94(6)(a), which refers to a notice given, and clause 94(6)(b), which refers to a notice sent. I have given some consideration to the appropriate word. The Government's view is that it is preferable to substitute the word 'served' for the word 'given' and the word 'sent', thereby picking up the expanded meaning of 'served' in clause 155.

The Hon. ANNE LEVY: I support this amendment. It does solve the problems which were raised when amendments were before us when we originally considered the legislation. The question was whether or not it was to be 'given'; in other words, delivered by hand or sent by post, when it might be the unit next door. I think 'served' is a good compromise which does not indicate necessarily the manner in which the notice is to be delivered to the person; it could be by post or it could be by hand—whatever is convenient in the circumstances.

Motion carried.

Amendments Nos 6 and 7:

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

That the House of Assembly's amendments Nos 6 and 7 be agreed to.

This clause 150 replaces in a modified form the existing clause 150 that was in the Bill as it left the Council in erased type. Paragraph (a) of the clause in the Bill is replaced as a consequence of amendments made here vesting common property in the lot owners instead of the community corporation. New paragraph (c) is also consequential on this change. The amendments to Schedule 1 are also consequential on the vesting of common property in the owners of community lots.

The Hon. ANNE LEVY: I support these amendments. In any case, the particular clause was in erased type when it was before this Chamber initially, and I am happy to accept the explanation from the Attorney as to why it comes back to us in a slightly different form from that which was in erased type before us. It means the same thing but it is taking account of what one might call legal technicalities.

Motion carried.

MOTOR VEHICLES (MISCELLANEOUS No. 2) AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendments:

New clause 43—Page 10, after line 21—Insert:

Amendment of Stamp Duties Act 1923

43. The *Stamp Duties Act 1923* is amended—

(a) by striking out from schedule 2 item 4 of the Component payable in respect of Registration appearing under the heading commencing 'Application to Register a Motor Vehicle' and substituting the following item:

4. Any application to register or to transfer the registration of a trailer that is not a heavy vehicle;

(b) by striking out from schedule 2 items 10A and 10B of the Component payable in respect of Registration appearing under the heading commencing 'Application to Register a Motor Vehicle' and substituting the following item:

10A. Any application to register a motor vehicle where the vehicle is to be conditionally registered under section 25 of the Motor Vehicles Act 1959 and the application is of a class declared by regulation under that Act to be exempt from stamp duty.;

(c) by striking out from schedule 2 item 11A of the Component payable in respect of Registration appearing under the heading commencing 'Application to Register a Motor Vehicle';

(d) by striking out from schedule 2 item 2 of the Component payable in respect of a Policy of Insurance appearing under the heading commencing 'Application to Register a Motor Vehicle' and substituting the following item:

2. Policy of insurance where the application is for registration of a trailer that is not a heavy vehicle;

(e) by striking out from schedule 2 items 5A and 5B of the Component payable in respect of a Policy of Insurance appearing under the heading commencing 'Application to Register a Motor Vehicle' and substituting the following item:

5A. Policy of insurance where the motor vehicle is to be conditionally registered under section 25 of the Motor Vehicles Act 1959 and the application for registration is of a class declared by regulation under that Act to be exempt from stamp duty.;

(f) by striking out from schedule 2 item 6A of the Component payable in respect of a Policy of Insurance appearing under the heading commencing 'Application to Register a Motor Vehicle'.

The Hon. DIANA LAIDLAW: I move:

That the House of Assembly's amendments be agreed to.

The amendments relate to the Stamp Duties Act. It was not possible for these matters, being money matters, to be considered in this place when this Bill was last before the Council, so this is a traditional way of dealing with such matters. It relates to the application to register a motor vehicle, in this case a trailer, not a heavy vehicle, and exemptions of stamp duty in such cases.

Motion carried.

STATUTES AMENDMENT (MEDIATION, ARBITRATION AND REFERRAL) BILL

Adjourned debate on second reading.

(Continued from 27 March. Page 1152.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. I note that the Attorney has taken into account recommendations from the Law Council of Australia and the various courts that will be affected by the passage of this Bill. We expect the passage of the Bill to lead to a substantial amount of litigation being resolved by mediation rather than resorting to full trials. Conversely, I am sure that the Attorney will be hoping for a significant reduction in trials being listed and heard in each of the relevant State courts. We must accept that mediation is not going to work in many cases, notwithstanding the marketing claims of the rapidly emerging mediation industry, which is mostly comprised of members of the legal profession.

The practice of mediation is much more established in New South Wales, and the Opposition has heard anecdotal evidence of mediation successes in that State. One can readily imagine mediation being a particularly attractive alternative in jurisdictions where litigation has traditionally been notoriously expensive and subject to delay. Ultimately, the Opposition's attitude towards this Bill is that we should give it our full support at this stage and then closely monitor the operation and success of the mediation option in South Australia. I support the second reading.

The Hon. J.C. IRWIN secured the adjournment of the debate.

WITNESS PROTECTION BILL

Bill recommitted.

New clause 23—'Disclosure of information where participant becomes a witness in criminal proceedings.'

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

In subclause (8) (of new clause 23 which was inserted by amendment) insert 'by the Director of Public Prosecutions personally' after 'must be made'.

After subclause (10) (of new clause 23 which was inserted by amendment) insert the following subclauses:

(11) In this section—

'Director of Public Prosecutions' includes a person acting in the position of Director of Public Prosecutions, the Deputy Director of Public Prosecutions or the Crown Counsel.

I indicated when we were going through the Committee stage that I was prepared to recommit the Bill or parts of it to the Committee if matters arose as a result of submissions made by the Law Society and the Bar Association. They did, in fact, make submissions that raised issues that were very largely focused upon the attendance by the prosecutor before the trial judge and the trial judge's associate for the purpose of disclosing the fact that a witness was a protected witness under this Bill. They raised some quite proper issues, which comprised the dilemma that faced the Government in relation to ensuring on the one hand a fair trial for an accused person but on the other ensuring that the protected witness status of a witness is, as much as is practicable to do so, properly protected.

The scheme of the amendments that I moved the last time we considered this was that the judge who presided over the trial should have a significant amount of flexibility to determine the extent to which information about the protected witness should be available, provided of course that that information had first been made available by the prosecutor to the trial judge. I suppose one might say it is an unenviable position for the trial judge but, notwithstanding that, it is an issue that has to be addressed.

The amendment seeks to address this in a way which does not overcome the inherent dilemma but which puts the issue on a more secure basis; that is, to provide that the disclosure to the trial judge in chambers in the absence of defence counsel but in the presence of an associate of the trial judge as well as the trial judge should be made by the Director of Public Prosecutions personally. The Director of Public Prosecutions is a statutory office holder, independent of Government under the Director of Public Prosecutions Act and a senior officer who has the responsibility for all prosecutions. The view is that such an officer would be less inclined to transgress the boundaries between what is reasonable and what might prejudice a fair trial than maybe a junior prosecutor who might not be experienced sufficiently to deal with this issue.

In the description of Director of Public Prosecutions I am seeking to insert an amendment that ensures that, if the director is perhaps away and there is an acting director appointed to take his or her place, the acting director may fill the shoes of the director or, if for some other reason—involved in a trial, interstate or incapacitated—the Deputy Director of Public Prosecutions or the Crown Counsel (which is an official appointment within the office of the DPP) are officers who also are authorised to make the disclosure. I think that builds in a significant measure of protection that was not in the Bill previously and I would hope that, whilst it still does not resolve completely the dilemma to which the Law Society and the Bar Association referred, nevertheless goes a long way to achieving the goal.

The Hon. CAROLYN PICKLES: The Opposition supports the Attorney's amendments. As we indicated when we were in Committee previously, we were concerned that we had not heard from the Law Society and the Bar Association, although the Opposition had sent out this legislation for their comment. I thank the Attorney for agreeing to recommit the Bill to deal with these amendments, which we support, but it shows some flaws in the consultation process. I am not criticising the Attorney—he sends Bills out for comment and does not receive replies—but I must say that the Opposition was quite diligent in pursuing these two organisations to try to obtain some response from them. We would have liked to go further to preserve the custom that one side in a criminal case should not have access to the judge in chambers without the other side being present, but we recognise that there are some good reasons to pass the Bill this week and we are prepared to compromise.

We considered and discussed with the Attorney's officers the question of sealed envelopes being handed to judges that needed to be alerted to witness protection program issues, but apparently we have been advised that some problems have been experienced in Canada in relation to phone tapping warrants and the use of the sealed envelopes procedure. At the end of the day, we have sought to provide some safeguards to ensure probity and, if it must be that witness protection issues must be raised with trial judges, we insist on the DPP personally being responsible for disclosing information and his delegated persons as indicated in the amendment. The Opposition considers that this will marginally reduce the potential for overly enthusiastic prosecutors

abusing the privilege of a private audience with the judge prior to trial. We believe it is a reasonable compromise and thank the Attorney for agreeing to recommit the Bill.

Amendments carried; new clause as further amended passed.

Bill read a third time and passed.

WILLS (EFFECT OF TERMINATION OF MARRIAGE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 April. Page 1209.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support of this legislation. It is an important Bill and it will provide some further safeguards for those who might be in the position of being parties to a marriage which has been terminated but in respect of which wills have not been amended following that termination of marriage.

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

[Sitting suspended from 5.50 to 7.45 p.m.]

GAMING MACHINES (MISCELLANEOUS) AMENDMENT BILL

In Committee.

(Continued from 3 April. Page 1271.)

Clauses 6 to 8 passed.

New clause 8A—'Insertion of ss. 53A and 53B.'

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

Page 3, after clause 8—Insert new clause as follows:

Insertion of s. 53A

8A. The following section is inserted after section 53 of the Principal Act:

Prohibition of certain practices in relation to winnings

53A. (1) The holder of a gaming machine licence must not provide a gaming machine or game that enables a player—

(a) to bet in a multiple of the minimum bet that may be placed on the machine if that multiple is more than 20 times the minimum bet; or

(b) to accumulate (before being paid out in cash) winnings on a machine beyond an amount that is 100 times the minimum bet that may be placed on the machine.

Penalty: Division 3 fine or division 5 imprisonment.

(2) This section—

(a) applies in relation to a gaming machine or game installed after the commencement of this section; and

(b) will, after 18 months from the commencement of this section, apply in relation to a gaming machine or game installed before that commencement.

The intention of this amendment is to tackle the way in which gaming machines induce people to gamble and sometimes induce people to gamble too much. It is an amendment that seeks to tackle the psychology of gaming. There has been a significant trend for gambling to shift to what are called low denomination machines, such as 5¢ machines. Many venues now have a vast majority of machines which are operating on a base bed of 5¢. I am told that interstate they are even going down to 1¢ and 2¢ machines, even though those coins no longer exist. You insert larger coins, and then have the opportunity to bet credits. That is part of the psychology, in that you put money in, but after that you are gambling with credits; you are no longer gambling with money.

People operate these machines, and the psychology is: I am on a 5¢ machine (or a 1¢ machine); obviously I will not get myself into too much trouble. However, the reality is that, because you can bet multiple bets on one line, and you can bet on many lines, the overall bet you can make is much larger than the base, perhaps by a factor of 100 or more. I am told that machines interstate run up to nine lines and you can have a multiple of 10 on a single line. Although you think you are running on a cheap machine, you can make very substantial bets.

What I am seeking to do is tackle the psychology of these machines which are rather seductive. You are no longer gambling money, but you are betting credits, and multiples of credits, although you thought you were going onto a cheap machine which, in terms of the base bet, you were. However, I do not think many people sit down taking 5¢ or even 1¢ or 2¢ bets, where machines offer that interstate, although they are not yet operating in South Australia.

I am arguing that, whatever the minimum bet is—even if it is one credit worth 5¢—the maximum you can bet on that machine would be 20 times that amount. I am not attempting to put an absolute limit on the size of the bet, because you could be on a 10¢ or 20¢ machine, but if people are going onto 5¢ machines, let us get them operating in a way which I think is less seductive.

The other clever bit about the way gaming machines are constructed now is that, when you win, it does not spit out the money or the credits. The credits stay in the machine. Essentially they tend to operate such that you put your money in but you very rarely take it out again. You tend to use up your credits before you go home. It seems to me that, if you have to go through the action of actually putting money back in occasionally, it is a much more honest thing to do than putting money in once or perhaps several times during the night, loading up the machine, and from then on simply playing with credits.

So, proposed section 53A(1)(a) is about the size multiples a person might bet against the minimum bet, and 53A(1)(b) is about the amount of money or credit held within the machine before it spits the winnings out and the person has to consciously think about whether or not they will put it back in. This is not attempting to take the entertainment away from gaming machines. It is not attempting to limit them in any way other than to attack what I think is the rather seductive psychology of the machines and the way they work. They have been extremely cleverly designed in terms of their ability to take money away from people. We can talk about choice, but the psychology of them cannot be ignored.

I recognise the fact that people have games installed and those games cost a lot of money, but it appears to me that they do turn them over fairly quickly when they want to. Nevertheless, proposed section 53A(2) would apply forthwith only to new machines or after 18 months in relation to existing machines. That is seeking to overcome the argument that it costs money to change the games over, although the changeover in terms of denominations and games happens quite rapidly when the owners of the machines choose to do so.

The Hon. R.I. LUCAS: I oppose the amendment, because I understand that in essence this will strike at the very heart of the entertainment value of gaming machines as the vast majority of punters or users of gaming machines would see it. I understand the Hon. Mr Elliott's position. Without exception in this Chamber he has opposed extensions to gambling activity, and he has been consistent in opposing all

attempts to extend gambling in South Australia, whether it be gaming machines or a variety of other options which the previous Government proposed.

As the honourable member will well know, my position is diametrically opposed to that which he has put in this Chamber. Over my time in Parliament I supported all the extensions to gambling which were proposed by the previous Government and which have been proposed by this Government in its first two years in office. So, we come from different philosophical ends of the gambling debate. He is being true to his view, and certainly I intend to be consistent with the view that I have expressed on a number of occasions.

I want to outline to members how significant an impact this amendment would have on the gaming machine industry and, in particular, on the entertainment value of gaming machines for the vast majority of punters out there who can control their level of gambling. They see it as an entertainment, they enjoy it with their family and friends and they are not part of the very small minority of gambling addicts who have attracted the attention of the critics of the gaming machine industry in its first 12 months.

I am advised that this amendment seeks to limit the size of the maximum bet that may be made on a gaming machine by reference to the minimum bet that may be made on the machine. I am told that 84 per cent of gaming machines in South Australia at the moment are of a 5¢ denomination. The maximum bet for most machines would therefore be $1, 20 times—

An honourable member: That's not true.

The Hon. R.I. LUCAS: That is the advice: 20 times the minimum bet of 5¢.

The Hon. Anne Levy: If this is passed.

The Hon. R.I. LUCAS: That's what I am saying. If you would listen, you would realise that I am arguing a case against the amendment. The Hon. Ms Levy can argue her case, but I am arguing a case against the amendment. I am highlighting my concerns with this amendment, namely, that I am advised that the maximum bet would therefore be $1, 20 times the minimum bet of 5¢. The current maximum bet on a gaming machine is $10. There is currently a significant push by the gaming industry for lower denomination values.

As the Hon. Mr Elliott has indicated, that is 1¢ and 2¢ machines. I am told that the Hon. Mr Elliott stated that that might be unusual, because there are no 1¢ or 2¢ coins any more. I am told that is not the case: you do not need 1¢ or 2¢ coins. You put in your dollar and get 50 or 100 games rather than 20 lots of 5¢ games. Whether or not it is unusual does not really come into it, and whether you have 1¢ or 2¢ coins is a red herring.

The machines are proving popular in other jurisdictions. At the time of the debate a number of years ago, some members highlighted that the most popular machines in the New South Wales industry were the 5¢ and 10¢ machines. Many people thought that the $1 machines, and so on, would be the popular end of the gaming market, but the reality in New South Wales has always been that the 5¢ and 10¢ machines were the most popular machines in that State. Clearly, punters in South Australia have had a similar view, and that is why 84 per cent of machines are of the 5¢ denomination. These machines are proving popular in other jurisdictions and, if these smaller denomination machines are introduced in South Australia, I am told that this amendment would mean that the maximum bet on these machines would be 20¢ and 40¢ respectively and that the accumulated win limit would be $1 and $2 respectively.

From an entertainment point of view, it would be absurd for those who want to enjoy a night's entertainment from gaming machines to observe such absurdly low accumulated win limits. The amendment seeks to limit the win credits accumulated on a machine to 100 times the minimum bet. On a 5¢ machine this would limit to $5 the amount of accumulated win credits on a machine—100 times the minimum bet of 5¢. The effect of this would be that any win or accumulated wins of more than $5 would have to be paid out in cash by the machine.

The impact of these significant limitations on bet size and on win credits accumulated on the machine would be to restrict the design, variety and player attractiveness of games and gaming machines. It would obviously have an impact on the entertainment value of gaming machines. To incorporate the changes proposed by the amendment, I am told that all games on existing machines would require extensive software changes after 18 months and would incur costs where licensees changed games earlier than they otherwise would have.

The proposed amendment would clearly inconvenience the majority of players, I presume in the hope that the interrupted pattern of play would help to minimise the incidence of problem gamblers. It is interesting to note that, whilst I presume that is the Hon. Mr Elliott's intention in moving this amendment, no evidence has been produced to indicate that that may or may not be the case. I am not arguing a point of view one way or the other but, clearly, those who seek to move these amendments and also then to try to gather support for them will need to convince the majority of members in this Chamber as to the effectiveness of the amendment that is being moved.

Again, I am not critical of the Hon. Mr Elliott; he is being true to his general philosophical view in relation to gaming and gambling and clearly, through this, is seeking significantly to restrict the level of gambling in the gaming machine industry in South Australia. However, members ought to be aware that that is the potential result of this amendment and, certainly, for my part I will strongly oppose it.

The Hon. P. HOLLOWAY: I also intend to oppose the amendment. I really believe that this represents an unnecessary inhibition upon competition within the gaming machine industry. We have a fairly competitive industry out there, and I think that is a good thing. We have seen a lot of innovations that have been introduced by various hotels and clubs and the manufacturers of gaming machines, as is their right, to try to entice punters through their door and increase their profits, but at the same time those inducements will work only if the punters—the people using the machines—accept and want to play with them. I believe it is up to the marketplace to decide these sorts of issues.

Limitations on bets is a little hypocritical, given that one can go to places such as the Casino where there are no limits on bets and bet huge amounts of money. The Minister has outlined a number of practical difficulties where, if we do have those lower multiple machines, it will cause all sorts of unnecessary problems. I believe that this proposed measure is unnecessary. I do not think any evidence has been produced which indicates that we need to involve ourselves in this sort of intervention or restriction in relation to gaming machines. I oppose the amendment.

The Hon. M.J. ELLIOTT: I want to put clearly on the record that I have not been opposed to gambling in South Australia. I know that I have so far taken a fairly consistent line in this place against most extensions for gambling but

that has been because, as I have seen it, gambling has been expanding in something of a vacuum: gambling has, I think, been largely unfettered and it has become a major growth industry. In fact, it would be the fastest growing industry in South Australia, and I see that as unhealthy.

I do not have problems with gambling. However, I do have problems with gambling which I think is happening in what I would consider is a fairly amoral atmosphere, if you like, where we have now constructed four separate gambling empires in South Australia—the TAB, the Lotteries Commission, the Casino and now the gaming machines in clubs and pubs—which are all scrambling for dollars and all trying to outgrow each other. The fact that they operate under separate bodies, to some extent, I think creates a problem, too, and it is unfettered growth.

Australians already gamble more per head of population than any other country in the world, and all the indications are that, the way things are going, there is a way to go yet. I do consider it unhealthy, but there are other things which I consider unhealthy but which I would not ban—and I am on the record in relation to marijuana and various other things. I do not believe necessarily that things should be totally unfettered or that there are not some constraints that we might put around it.

This amendment recognises that we have gaming machines, and I opposed them because I realised that they were going to come into what was largely an unfettered atmosphere, where it was really part of a significant money grab. I am afraid that everything I feared in relation to gaming machines so far is coming true, and it will get a lot worse over the next couple of years before things start getting better again.

Most people who are experts in gambling will tell you that gaming machines are particularly insidious in the way that they work. This amendment is about tackling, as I have said before, the psychology of the workings of these machines so that players get some fairly honest signals back from the machine as to what they are really doing: they are playing with money, not with credits. When you go on a 1¢ machine or a 5¢ machine (or whatever) the credits you are betting are sometimes significantly larger bets. I am not trying to put a limit on the size of bets that people make. You go on a $1 machine and can make a bigger bet than legally you can make now.

At the moment on $1 machines you can only make a $10 bet under the regulations, as I understand it. So, in this case it is actually expanding the size bet that a person can make on a $1 machine. So, do not give me this rubbish about my seeking to restrict the size of bets. In fact, the size of bets is doubled in relation to $1 machines. I think that most people honestly say, 'I can only afford a 5¢ machine,' so they go on it and then get sucked in. It is no accident that the most profitable machines at the moment are those lower denomination machines, and that is not just because they are more popular: I think it is because they really do draw people in.

We could have some arguments about whether I have chosen the right numbers and whether or not there could not have been a sliding scale, but somewhere along the line I think that we can tackle gaming machines in such a way that they provide genuine entertainment value and they do return a profit to the venue but work in such a way that the susceptible gamblers are not taken for a ride. I think that at the moment unfortunately they are. The Hon. Mr Lucas is really saying, 'They are on their own.' I do not accept that notion. I agree with the right to allow people to gamble, but I do not believe that people are simply on their own. I do not think we forcibly stop people from doing some things but it does not mean that we do not take due care.

The Hon. ANNE LEVY: I would like to ask the mover of this proposed new section whether there is any evidence that it will in fact limit the losses which people suffer. He seems to imply this intuitively, but I wonder whether there is any hard evidence that this is in fact the case, or is it merely that to lose the $20 or $30 which has been put aside for the evening's gambling, instead of taking one hour, will take two hours or two and a half hours? Is the effect to limit losses or merely to take longer to achieve a given loss?

The Hon. M.J. ELLIOTT: I think that is a fair question. The fact is that gaming machines, with the exception of Las Vegas and very few spots in the United States and New South Wales, have been a relatively new phenomenon and not much studied, and I do not think any attempt has been made anywhere so far to address this question of losses.

In relation to proposed new section 53A(1)(a), it is intuitive. At one stage some months ago I simply sat down and did some calculations. I knew of some people who had lost significant amounts of money and I thought, 'How on earth did they lose that much?' You sit down and try to do sums, and it is very hard to work out how so much money can be lost when you talk about people losing, on gaming machines, sums of $50 000 and $60 000 in a year. You think, 'Surely there are not enough hours in the day. Surely they get tired before they lose that money.'

However, the reality is that the way the machines currently operate, if you do your sums, you find that they can lose that amount of money in a gaming machine. So, it is intuitive. What it is basically doing is saying that exhaustion will get them to leave before they have lost horrendous amounts of money, and what is horrendous will differ from person to person. Yes, it is in part intuitive, but I did sit down and, on the back of an envelope, do some calculations as to what speed one can lose money and how many hours a person will really spend at a machine.

Compared to the amendment that the Government has put about closing hotels for six hours, which is suggesting that people are spending 18 hours or more a day in a hotel, which is absolute nonsense, it is intuitive. That was not even intuitive: that was tripe. I am sorry that I did not bring my calculations with me. I did some back-of-envelope calculations to work out how fast one could lose money.

Proposed new subsection 53A(1)(a) slows down the speed at which one loses money on a particular machine. The same person could go to a $1 machine and lose it more rapidly. There is no doubt about that, but the reality is—

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: Yes, but the reality is that the people who are losing the big sums are tending to do it on some of the lower denomination machines, and it is the multipliers that are getting them into the trouble. It is an application of logic; there is no proof at this stage. All I have is any amount of evidence from the community that a lot of people—and I think a lot more than the Hon. Mr Lucas seems to acknowledge—are getting into serious trouble. The fact that it swells the Government's coffers and perhaps other people's pockets does not make me feel any better about it.

The Hon. ANNE LEVY: I have another question for the mover of this amendment, or perhaps the Minister with his advisers might be able to answer it. I cannot pretend to be any great expert in playing with gaming machines, but from my limited experience I take that it one does not have to use

multipliers on a machine: that if you are going to lose your $20 and you want to take a long time over it you can do it 5¢ a time and not speed it up by having a multiplier—that it is the choice of the player as to what multiplier they use and consequently how rapidly they lose their money. Am I in error there?

The Hon. T.G. CAMERON: I have a couple of questions that I would like to ask the Hon. Mr Elliott. In relation to proposed new section 53A(1)(b), would he advise the Committee where he got the figure of 100 times the minimum bet?

The Hon. M.J. ELLIOTT: Once again, I think in many cases in legislation when it is new or we go into a new area we look at what we think is a fair thing. It seemed to me that 100 was a fair thing, even in relation to a 5¢ machine. It means that once one accumulates more than $5 it would then spit out the money. But it does not take very long to put five coins back in. It is simply seeking to say, 'Do you want to put the $5 back in or not?' It is a bit like when you work on a computer program; some programs say, 'Do you really want to this, Yes or No?', and it gives you a prompt that you are about to wipe something out and that it is worth thinking about. That is all this is doing: it is saying to the bettor, 'You have accumulated 100 multiples of the minimum bet. Do you want to keep betting?' Certainly you can do it with credits, but I am saying,'Let's see the real money sit in the tray.' People can consciously put their money back in, not just keep playing with their credits.

The Hon. T.G. CAMERON: Will the Hon. Mr Elliott outline what is his intention with proposed new subsection (2), paragraphs (a) and (b), which refers to an 18 month period from commencement of this section?

The Hon. M.J. ELLIOTT: I addressed this issue before. Subsection (2)(a) relates to new machines that are installed after this date. Subsection (2)(b) relates to existing machines, and it recognises that a cost is involved in changing the software. On my observation, even in the period that we have had gaming machines, a lot of software has changed over. I do not think that 18 months is an unreasonable time in which the software can be changed without creating any financial burden on the hotels. That is why I have made it 18 months.

The Hon. T. CROTHERS: I have listened very carefully to what the Hon. Mr Elliott has had to say and, whilst not professing myself to be an Albert Einstein, I suggest that, if someone tried to come up with a mathematical formula, particularly written on the back of a envelope, and if that person were a member of this Chamber, they would be wasting their time. They should be at the Physics School in Harvard. I know of no mathematician, past or present, even of the calibre of Einstein and others, who has been able to arrive at a mathematical formula to consistently beat poker machines. One can set odds, like SP bookies do, but one cannot beat the pencil or the mathematical odds overall. It is not possible. That is not to say that there is not an element of luck for individuals in respect of a night's play, a day's play or a run for a week, or whatever. The honourable member's amendment is not worth the paper on the back of the envelope that the calculations were written on, and I will oppose it.

The Hon. M.J. ELLIOTT: I should have let it slide past, but I cannot. 'Back of envelope' is clearly a saying. I did not calculate odds on machines or anything like that, but I did a simple calculation. I wanted to understand how people were losing their money and how fast they were losing it in order to lose the quantities that I know people have lost. I know that people have already lost farms and homes in the period that gaming machines have been available. When they first told me this, I found it astonishing. I know a couple of these families closely enough to know that they were telling me the truth. As I said, I simply did a calculation to work out how many hours of the day they spent at a machine to do it.

The Hon. T.G. CAMERON: The Hon. Trevor Crothers was spot on when he said that he has never found a mathematician capable of coming up with a formula of beating poker machines, and that is because poker machines are set with one primary objective in mind, and that is that they are going to win. On average, the people who play them will lose. It is not a question of chance; it is not a question of probability theory. It is completely dissimilar to the risks that a bookmaker might take when framing his odds for the races. He can get caught. Whilst they do frame their odds and adjust their odds according to the volume of bets that come in, we have seen plenty of evidence of bookmakers going broke. The Hon. Mr Crothers is correct. It is not possible for mathematicians, whether or not they care to go to the School of Physics at Harvard, to come up with any mathematical formula that will beat poker machines.

I have listened carefully to the arguments that have been put forward by the Hon. Michael Elliott and I am somewhat persuaded by them; not that I believe that firm evidence has been put forward that the amendments would actually reduce the level of gambling, but it seems to me that it is an effort in the right direction. Some of the proposals in relation to people being paid out in cash and limiting the multiple bet that can take place would slow down the rate at which people might lose. However, I suspect that, over time, the high level of players currently playing the 5¢ machines may well switch to 10¢ or 20¢ machines. However, the amendment that is before the Committee has been moved by someone who has a genuine concern about the level of losses being experienced by some people in South Australia.

As I may have mentioned in the Chamber the other day, I received correspondence from someone who so far has lost $110 000 on poker machines. In that correspondence, he readily admits that he is a poker machine addict. He has sought help and he cannot do much about it. That is the kind of person that the Hon. Mr Elliott's amendments are aimed towards. I am not a poker machine player and I never have been. What convinced me not to play poker machines was the simple premise that they are there for the hotelier and the Government to win and the people who play them will, on average, lose. Unless people are extraordinarily lucky on poker machines and happen to get a big jackpot, there is only one fate that they will suffer at their hands and that is that they will keep reaching into their pocket and pouring money into the machine. Whilst it will give them a payout every now and then, and they seem to be set up that way so that patrons regularly get a small payout, it seems to extend the time taken for people to lose their money.

Comments were made about the difficulties that this would cause the industry, but it appears to me that the amendments set out in proposed new subsection (2)(a) and (b) of the Hon. Mr Elliott's amendments cater for that. As I understand that amendment, the owners have 18 months within which to adjust their existing machines. It does not take the hoteliers too long to work out which machines are popular and which machines are unpopular, so the unpopular ones are traded in and they go for more of the popular ones. It seems to me that the amendment takes care of that problem. Most of those machines would have been traded in within that

18 month period and, in any case, it requires only a simple adjustment of the machine to change it from a 5¢ machine to a 10¢ machine. They can rip off the front parts of the machine, put a new face up on it and they can vary the payouts, etc. The one thing they do not vary is that they are set for the punter to lose and for the owners and the Government to win. I did not have any set view on the amendment moved by the Hon. Mr Elliott, but I have been persuaded by the argument and I will be supporting it.

The Hon. T. CROTHERS: I want to shed a bit of light on this matter. I might stress that I am not a gambler, but I did have a mate in Belfast, a very tough SP bookie school indeed, who ran his mother's half-interest in the bookies. I do know a fair bit about gambling and the setting of odds. The Hon. Mr Elliott and Hon. Mr Cameron tried to compare apples with oranges; they tried to compare the noble art of SP bookmaking with poker machine gambling. You just cannot do it, because the SP bookie has time on his or her side to adjust the odds, to set the odds.

Members interjecting:

The CHAIRMAN: Order!

The Hon. T. CROTHERS: Thank you very much, Mr Chairman, for your protection. Clearly, an SP bookie, or a bookie who sets the odds on horse racing, trotting or dogs, or any of what I describe as the four-legged type of gambling, has time to set and adjust the odds. Indeed, in the case of doubles and trebles, when someone comes in and gets the first leg up of a double, the small-time SP bookie will immediately seek out a bigger bookie and off-set his losses—and may even try to gain a profit—by placing a singular amount of money on the second leg of the double or the third leg of the treble.

As I have tried to explain, the SP bookie has time to frame odds; they do have time to lay off. It is not the sin that people would try to push it to be—to say that the odds on poker machines are set mathematically so that the house cannot lose overall. That is another difference that I want to raise. At the end of the day, the SP bookie has only the profits for himself and the wages for his clerk to consider in respect of making a profit or loss for the day, but not so with the poker machines which are operating in licensed environments. There are other wages to find.

In my view, because gambling on poker machines is an instantaneous situation, where you put in the money and pull the lever and that flashes a win or loss result, it is not possible, like an SP bookie, to pre-position yourself in framing odds. That has to be done mathematically in respect to the general house win or loss situation. That is what I meant when I said that you cannot win on poker machines. I am talking in general terms where the full bank of poker machines is working. The house sets odds—not very large odds—and sets aside a small percentage for itself in respect of the income that goes through the machines.

I guess people who have lost $110 000 are addicts, but I do not know what you do about that. Do we stop Australian Rules Football because occasionally a player breaks his leg? Do we stop cricket because occasionally a batsman gets struck in the head? If you want to set a prescription for the general public, you will always get the hiccup in the graph line that governs the behaviour of the general public. What do you do? Do you say that, because one or two per cent of the population are addicted gamblers, you frame legislation in respect of the other 98 per cent? I chaired a committee during the last Parliament which was set up to inquire into gaming machines. The Hon. Carolyn Pickles, the Leader of our Party in this Council, was on that committee with me. We received evidence from a religious fellow who was a counsellor in respect of gambling addiction. He told us that he was not opposed to the introduction of poker machines.

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: He told me—and the Leader will bear this out—that it was an addiction, the same as you have addictive alcoholics or addictive lovers of the Virginian weed. It is the same thing. We do not pass laws endeavouring to stop people from drinking or smoking. We are happy to have a go at cigarettes and passive smoking and yet we let cars drive on the road spewing out lead from the exhausts that would choke a donkey on the MCG paddocks.

The Hon. T.G. Cameron: But we are trying to fix that.

The Hon. T. CROTHERS: Well, you are very trying, I agree. That is what that person from a church mission, who was the only counsellor in the State at that time, said to the committee. That is what he told us: he was not opposed to poker machines. Most people who go to play poker machines, or who go to the races, who gamble on pushbike races or whatever, go with a certain amount of money to spend. When that is gone, they go home. People go with $20 or $40 and they lose it. If you support the Hon. Mr Elliott's amendment, they may stay a little longer to lose it. If you support the proposition that I am advocating, then at least it is swift mercy in respect to any losses that they might incur. I urge you to support the position outlined by myself.

Suggested new section negatived.

Suggested new section 53B—'Prohibition of gaming inducements.'

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

> 53B. (1) The holder of a gaming machine licence must not offer, give or provide a person with, free of charge or at a reduced price, as an inducement to enter a gaming area on the licensed premises or to play the gaming machines in such an area—
>
> (a) gaming tokens; or
>
> (b) money, goods or services (other than food or beverages provided on the premises); or
>
> (c) entry in a lottery.
>
> Penalty: Division 3 fine.
>
> (2) The holder of a gaming machine licence must not provide food or beverages on the licensed premises free of charge or at a price that is below cost.
>
> Penalty: Division 3 fine.

People who recall the debates that we had at the time the gaming machines were first made legal will recall that we did seek to put some constraints on prizes given beyond those on the machines themselves. You may recall, for instance, that linked jackpots were banned. Some hotels and clubs have been fairly clever about this and, although linked jackpots do not exist, there are substantial prizes being offered as inducements over and above those on the gaming machines themselves.

It seems to me that if we have taken a position in relation to linked jackpots I am not sure why we would not take the same position on some of these other more valuable prizes being offered as overall inducements. When I look at the question of provision of food, which I have in new section 53B(2), there is no doubt that the subsidies being put on food and beverages—and they are nothing more nor less than significant subsidies, and subsidies that lead to their being supplied below cost—are having a significant impact elsewhere in the community. People are trying to run food businesses as food businesses, are paying all the award wages and everything else, are running a business perfectly properly but there is no way known that they can ever sell the food or

drink for the price they are being offered in hotels and clubs at this stage.

The Hon. Anne Levy: They are paying award wages, too.

The Hon. M.J. ELLIOTT: Yes, but they have one other advantage: they can have poker machines, machines that are to some extent a licence to print money, as long as you have them in the right—

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Are you finished? You get up on your hind legs in a second and you can have your go.

The CHAIRMAN: Order! I ask the honourable member to keep to the amendment he has before us.

The Hon. M.J. ELLIOTT: If the Hon. Angus Redford would behave himself—

The CHAIRMAN: Order! Ignore the interjections.

The Hon. M.J. ELLIOTT: That is all they deserve. I rather suspect that the licensed premises would scream blue murder if restaurants around Adelaide were also given licences to have gaming machines. If you want to have level playing fields, you are getting exclusivity in the rights of having machines and then, having those, you use those to cross-subsidise things which are not core business but which are used as inducements to get people through the door. It just so happens that at the same time you are undercutting other legitimate businesses that do not have the right to have those machines. I am not arguing that the right to have machines should be expanded. What I am saying is that they have been given an exclusive licence, and I think for good reason.

I do not like the notion, as I saw in Las Vegas, of having gaming machines in supermarkets; you arrive at an airport and the first noise you hear is gaming machines; you walk off the concourse and there they are.

Members interjecting:

The Hon. M.J. ELLIOTT: That is the ultimate level playing field, but the clubs and pubs should ask this question of themselves: how should they expect to have the right of exclusivity in relation to having machines if they then use that to produce a significant cross-subsidy onto another product, which is hurting people who are denied that cross-subsidy ability? And it is a very significant cross-subsidy. By the same token, having spoken to hotel proprietors, I know that a number of them say that they would rather not do it but they do it because the Casino is doing it and because other hotels are doing it. I am not suggesting that they may not be supplied at cost, but at the moment the meals are clearly being supplied well below cost, and I think that it is an abuse of the exclusivity of gaming machines to then use that right to produce the cross-subsidy and, for that reason alone, I believe that the cross-subsidies should cease.

I admit that there would be some grey areas, and any suggestion of a prosecution would have to be only when the prices are so low that they could not be anything other than below cost. Again, if I go back to 53B(1), I guess I am looking for a bit of honesty in the gambling. If people are going to play gaming machines, by all means do it, but whether or not we should be allowing inducements is quite another thing. It is the same approach I have taken with tobacco. I have no problems with tobacco being a legal product but enormous problems with its being advertised with inducements being placed around its use. It is the same approach I have in relation to cannabis: I have argued for regulated availability but I have taken a very strong position in relation to inducement to use it. I think I can argue that I run a fairly consistent line across many of these moral issues, whereas some people are all over the shop, opposing some things outright and supporting other things with absolutely no reservations whatsoever.

The Hon. A.J. Redford: We all aspire to be as good as you.

The Hon. M.J. ELLIOTT: Well, you'll never make it. I seek members' support in relation to this clause.

The Hon. R.I. LUCAS: I strongly oppose this amendment to new section 53B on behalf of a number of constituent groups: first, the pensioners of South Australia and, in a little while, those who may currently be getting discounted liquor from licensed premises. There are many people in South Australia at the moment, not necessarily big gamblers, who are enjoying the benefits of cheap meals at hotels and clubs.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: What it is saying is that, if someone is currently offering lunches for $2 or $1.50, that could be below cost, and it would be an interesting question as to how the Liquor Licensing Commissioner would go through these calculations on every meal being offered and what the cost price is. That is one of the practical questions in relation to the amendment. However, the pensioners, in particular, and many people who are struggling at the moment to make ends meet, who are not addicted to gambling at all, are benefiting very significantly from the introduction of the gaming machine industry in South Australia. I am sure that the Hon. Mr Elliott must know some but, if he does not, I would be happy to give him the names of a few people who could give him an indication of the number of people who happily go along for their $2 lunches or dinners, who may well only bet a couple of dollars, have a couple of hours entertainment, get a cheap meal, get together—

The Hon. Anne Levy: They don't even have to gamble.

The Hon. R.I. LUCAS: They do not even have to gamble, and some do not. They get together as a group with friends, and it is extraordinarily good entertainment and good value for many disadvantaged members of the broader South Australian community. What the Hon. Mr Elliott is trying to do, in effect, is take that away from the pensioners of South Australia and the others who, over the past 12 months, have been able to reap the benefits of the introduction of the gaming machine industry in terms of having a good meal, getting it at low cost and having some social exchange at the same time with friends and acquaintances. The Hon. Mr Elliott in his time—and I have shared a few meals with him—

The Hon. L.H. Davis: Have any Democrats ever gambled, do you think?

The Hon. R.I. LUCAS: I am not sure. Some of the counter meals that the Hon. Mr Elliott and I have had over time have been extraordinarily good value, and I am sure that the hoteliers probably were not making much of a profit and the meals may well have been subsidised significantly, because what they want to do is increase custom in the hotels. They want to get people who are prepared to come into the hotels and, if a bit of subsidised counter lunch or dinner will get you into the hotel, that is what they will do.

They have been doing it for decades, and it is just an extension of the same argument that hoteliers have used for decades in terms of custom through their hotels. If this amendment were to pass, the Liquor Licensing Commissioner and his or her staff would have a big 'ask' in terms of calculating the cost price of every meal that would be offered, and what would happen if anyone were to challenge it? Those are the practical implications of how this amendment might be implemented.

The other issue, as I read the amendment is, for example, that a number of our hotel outlets at the moment have fearsome reputations in terms of discount alcohol sales from their licensed outlets. Those members with an eye for a good bargain will know of a few outlets in South Australia that have a good reputation in terms of reduced costs for some of their items. As I read this amendment, and certainly my advice would indicate it, the Hon. Mr Elliott will prevent any of those outlets from having sales of alcohol below whatever the cost price might be because the amendment provides:

The holder of a gaming machine licence—

The Hon. Anne Levy: Only if they have pokies.

The Hon. R.I. LUCAS: If it has a gaming machine licence. Okay, so it is a hotel that has a gaming machine licence. The amendment provides:

The holder of a gaming machine licence must not provide food or beverages on the licensed premises free of charge or at a price that is below cost.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Who will make the judgment about the inducement?

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.I. LUCAS: This is not the major argument against it, but again, if this amendment was to be included, there would be a significant doubt on the possibility of some of those outlets who are holders of gaming machine licences being able to significantly discount items of alcohol within those licensed premises.

An honourable member interjecting:

The Hon. R.I. LUCAS: It is exactly what it says. It might not be what the Hon. Mr Elliott meant.

Members interjecting:

The Hon. R.I. LUCAS: How does one know whether or not it is an inducement? Are the Hon. Mr Cameron and the Hon. Mr Elliott saying that, if the Findon Hotel—which might have a gaming machine licence—was offering a dozen bottles of beer for 10¢ from the bottle department that that is not an inducement to encourage patrons to go down to the Findon Hotel and may be go in there as well?

The Hon. T.G. Cameron: No, because they could buy the booze and just go home.

The Hon. R.I. LUCAS: They can do the same thing with the lunches. There is the ridiculous nature of the argument. You can go in as you do at the moment, have your lunch and not gamble. Where is the Hon. Mr Cameron's argument there?

The final point is that a number of other elements of the gambling industry use inducements and would still be able to continue to use inducements, in terms of encouraging people to go along to their particular gambling code. For example, the racing industry, as I understand, distributes free tickets to people to get along to the racetrack or whatever else it is. There are a range—

The Hon. G. Weatherill: Greyhound tracks.

The Hon. R.I. LUCAS: Greyhound tracks, the Hon. Mr Weatherill tells me: I am not familiar with those. Certainly, the Casino does. There are a number of other examples of other sections of the gambling industry that would still be able to continue to use various forms of inducement in terms of getting people to go to their premises—to the racetrack, the greyhound track, as the Hon. Mr Weatherill has suggested, or whatever—yet this element of the gambling industry would be so prevented. For all those reasons, I urge members very strongly to oppose this amendment.

The Hon. P. HOLLOWAY: I also oppose the amendment. Many of the matters have already been raised. It seems to me that the Hon. Mike Elliot is proposing a degree of intervention in people's lives. It is sort of a nanny state type intervention that goes beyond what is reasonable. The promotions—

The Hon. M.J. Elliott: Do you want gaming machines installed everywhere?

The Hon. P. HOLLOWAY: No, I do not want gaming machines installed everywhere, but I do not see any problem with having subsidised meals at a hotel. The Hon. Mike Elliott compared the situation with restaurants. A large number of restaurants do offer inducements for people to come into their restaurants.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Exactly, look at McDonald's. Even the takeaway, McDonald's—buy a burger, get one free. Clearly, there is some subsidy. A number of up market restaurants as well offer 'Buy one meal, get one of equal value free.' There are a number of promotions and they are widespread throughout the commercial sector. They are part and parcel of life; they are part of competition. In relation to the first part of the amendment concerning tokens, money, goods or services on the back of supermarket dockets you will see that certain hotels are offering $5 free credit on a poker machine if you go there. Clearly, the idea is to get people into hotels. If people like the atmosphere, if they enjoy doing it, they will go back. If they do not like it, they will not go back. I see it as a reasonable part of promotion and commercial competition that is taking place in the marketplace and it would be most unreasonable indeed to try to outlaw that sort of entertainment.

In relation to the subsidised meals, I point out that that is one of the ways in which the people who use poker machines benefit directly from them. In later amendments tonight we will be talking about returning money taken from poker machines to those who are the victims of it.

The Hon. M.J. Elliott: To some of them.

The Hon. P. HOLLOWAY: Well, to some of them, but I would have thought that the presence of subsidised meals is a very direct way in which the users of poker machines receive benefit from them. Of course, it is also part of the overall package of entertainment. When the gaming machines Bill was first introduced it was pointed out that we were talking about total entertainment. It was not just an isolated machine tucked in a corner, but it would change the nature of hotels and clubs and provide a total package of entertainment. These other inducements, the subsidised meals and so on, are all part of the overall package of entertainment. It would be completely unreasonable to try to limit that in any way. It would also, as I said, severely disadvantage hotels and clubs with respect to other companies in the commercial sector that are able to use these types of inducements. I certainly oppose this amendment by the Hon. Mike Elliot and I ask members to do likewise.

The Hon. T.G. CAMERON: Will the Hon. Mr Elliott outline to the Chamber the various techniques of either providing money, goods, services, tokens or any other kinds of inducements that he is aware of that the gaming machine industry is providing to customers?

The Hon. M.J. ELLIOTT: There are indeed a range of offers. I believe it varies from as much as something as valuable as a car down to a toaster, down to a free meal, and

so on. There is a whole range of things. I realise that they are likely to be pretty inventive and the reason why I use such a catchall phrase is that I have no doubt that, if we simply try to identify particular goods, they will quickly move to something else. As I said, the prizes can be quite valuable, running into thousands upon thousands of dollars down to quite small things. They often entail—

The Hon. Anne Levy: Like lotteries; what is the chance of winning one!

The Hon. M.J. ELLIOTT: That is right. The chances are pretty low, but it is the inducement again. In relation to the comment made by the Hon. Paul Holloway about the nanny state, when I interjected and said 'Would you accept gaming machines going into restaurants and into virtually all other venues,' he said 'No'. I would question whether that is not being the nanny state. Once you say that you will license these things and limit where they go—

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: No. I have no doubt that other individuals could prove themselves to be upstanding citizens and so on in the same way as people within hotels.

Members interjecting:

The CHAIRMAN: Order! The Hon. Legh Davis.

The Hon. M.J. ELLIOTT: It is a matter of convenience in the first instance, I suppose, that we already had a licensing branch operating in relation to liquor and it was easy to overlap that with gaming. But it did not have to be that way; we chose to. We have put some limitations on it.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: We have imposed some limitations. I do not think one can argue that we cannot put on limitations, this being a nanny State, when the Hon. Paul Holloway has accepted some limitations. In fact, the Parliament as a whole has accepted some limitations. The debate we are having now is the extent to which are we prepared to place limitations, where the appropriate drawing of lines occurs. That is the difference. We may not agree on where the lines are drawn, but I do not think I have heard anybody argue that it should be open slather. Everyone is arguing that there has to be some level of constraint, and it is a question of where that line is drawn. So, we are talking about the question of extent. I presume that, since these people are so concerned about a nanny State, they might actually look at the legalisation of prostitution and regulated availability of cannabis, and prove just how much they do not believe in a nanny State. It would be a real test.

The Hon. ANNE LEVY: I certainly wish to indicate that I oppose this amendment. The idea that cross-subsidisation cannot occur strikes me as ludicrous and quite contrary to what this society does all the time. It is not just in relation to hotels which for years have been cross-subsidising cheap counter lunches by the beer sales and patrons benefit from the cheap counter lunch, whether or not they have a beer. If one is arguing against cross-subsidisation, telephone calls in the country would be 20 times their cost. There would be no subsidies from most citizens to pensioners in terms of their rates or electricity or gas bills. This cross-subsidisation from one group to another occurs all the time, and I see no reason why it should not occur in this case as in others.

If people choose to benefit from the cheap meals offered by clubs and hotels without playing the pokies, then they are way ahead, and why should they not be? If they do play the pokies, with the cheap meals they are getting back something for the money which they are leaving in the poker machines. Something of which one can be quite sure is that hotels and clubs will not lose money. If it does not result in greater returns through the gaming machines, they will not offer the cheap meals. So, if they wish to apply this cross-subsidisation to the meals, either from the gaming machine profits or from the alcoholic beverages profits, I see no reason why they should not do so, as they have done for years in the past.

The Hon. T. CROTHERS: I wish to indicate support for the position embraced by the Leader of the Government in the Council and my colleague the Hon. Paul Holloway. However, I want to put a cautionary note on the record, because this is something with which I am very familiar. Some time ago, both when my predecessor John Dillon and I were Secretary of the appropriate union, we had occasion to take issue with discount beer. At that time the hotels and some of the clubs that had bottle licences were all paying correct award wages. Among many other places, the King of the Discounter, when we took his wage and time books, was found to be $4 000 or $5 000 light on in the amount of wages that he was paying to his staff.

This position that I am embracing is based on the presumption that apples will be apples and oranges will be oranges, and that the people who offer cheaper meals or whatever are not using the fact that they are not paying the correct award wage rates to subsidise that position. If I find out that that is happening, I indicate to this Council that I will be up on my feet with a private member's Bill. I believe this is a different position than that which occurred in Whyalla, where clubs were pulling 200 18 gallon kegs of beer a week. Some 31 people were employed, of whom 28 were employed at the Whyalla Workers Club; also, one was employed at another club whilst someone else employed two. At a time when the ship building industry was closing in Whyalla, motels were pulling 208 18 gallon kegs per week and employing about 300 people.

Certain clubs at that time were selling cheap meals, selling cheap beer, doing everything right, but not paying wages, or using 'volunteer' labour and paying them under the counter a wage 25 per cent of that which was laid down in the award. So, not only was the Government losing in payroll tax and the Federal Government losing in income tax but also we estimate that Whyalla, a city bereft of opportunities for employment, had lost some 100 jobs because of that discounting situation in which we were involved. But this is a pig with a different snout.

I want to stress that my support for this is based on the premise that we are not going to see the bad old days return where people will endeavour to discount things down so low that they will be using low wage payment and illegal wage payment to subsidise those very low activities. Presuming that we are all on a level playing field, I support the position embraced by the Leader of the Government and my colleague Paul Holloway. I do not think much needs to be said or done. I am saying that if licensees who have poker machines want to put part of the profit their way in order to gather more trade, that is fine by me, as long as they subsidise it with the profit margins. If they try to subsidise it by cheating and robbing people of the correct payment of wages, that will be an entirely different matter. I wanted to put that on record so that everybody who reads the *Hansard* will be quite clear about my position in respect of that matter.

I ask all members to consider very carefully what I have said: if people holding licences are subsidising low cost meals out of their profits, that is fine by me. I do not think we can stop them doing that, as long as it does not then lead on to bigger and more illegal bounds, if a discount war starts. That

is what I am saying. I do not think we should be passing legislation which opens up an avenue of opportunity for people to be cheated and robbed of what they worked damn hard to earn.

The Hon. R.R. ROBERTS: I have heard the debates from those who claim to be civil libertarians. The Hon. Mr Elliott has actually got a point here, although we have probably gone too far to unscramble the egg at this stage. I think we have to be absolutely aware of what we are talking about here. The Leader of the Government spoke about the subsidised meals for counter lunches. Let us be perfectly clear what that was about.

The licensee has an exclusive right to sell alcohol, which is normally very profitable and which is an addictive substance. What he is or she is doing is providing a meal to entice people to buy more beer, because that is where the profit is. Now in South Australia we have given licensed premises exclusive rights to run poker machines, which is another addictive activity. What we are doing is providing inducements to go there and play the poker machines because, again, the profit is in the poker machines, to which these people have exclusive rights.

All these people come in here screaming about the effect on small business and how they are all supporters of small business, but the delicatessen next door that is selling hot cross buns and pies and pasties cannot offset with the addictive substance or activity, be it beer or gambling. The same civil libertarians here tonight are screaming in defence of small business. In fact, within the body of this Bill we recognise that people out there are suffering because of the competition of this exercise. However, if somebody was going around offering inducements such as free meals, and so on, for people to get into cannabis, we would have these same people getting up indignantly and saying how terrible it was. So, let us not dress this up.

I will not support the amendment, because we have gone too far down the track. I am not opposing it simply on the basis of the Hon. Mr Lucas's saying he is worried about the pensioners getting free meals. That is not true. This is an inducement. These people are engaging in inducements to get people to gamble and to drink. Let us not make out that it is something to do with cross subsidies, because people in small businesses and sandwich shops cannot cross subsidise with anything. Let us be completely honest about it. We have given these people with licensed premises a free kick to sell alcohol exclusively, and now gaming machines exclusively. We also have a situation where they are not happy with that, either: they want exclusive rights to the TAB. They are knocking off the bookmakers in Port Pirie because of the competition.

This is really all about giving one group of people exclusive rights to print money. Not one meal has been given as an inducement to help out the pensioners—not one. The only reason those meals and tokens are being given is to induce people to gamble and drink. This Parliament has passed the legislation to allow people to gamble and also to allow meals to be provided.

I think the point Mr Elliott is making here is valid, but the amendment will not be carried at this stage, because we have gone too far. Unfortunately, it is a fact of life. Whilst I agree with the Hon. Mr Elliott's sentiments, I do not think we can unscramble the egg. However, I do accept the points he makes, as I think they are valid and do not deserve ridicule.

The Hon. T.G. CAMERON: I rise to support the amendment moved by the Hon. Michael Elliott. It is a rare occasion that I find myself on my feet twice to support an amendment that he has moved. I do so on the basis that the Hon. Michael Elliott's intent is quite clear.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: I do not mind if the Hon. Angus Redford wants to interject on his crutches from the bank bench. I have all night. If he wants to keep interrupting me, he can come along on Friday. I do not mind; the more he interjects, the longer I will go on. If he wants to end up here on Friday, he can go for it, because we have a lot more amendments to go through yet, and I do not mind speaking when I do get up on my feet.

The Hon. A.J. Redford: That's a threat, is it?

The Hon. T.G. CAMERON: No, it is not a threat. You are the one who is interjecting and interrupting all the time.

The CHAIRMAN: Order! I think the honourable member would be wise to get on with the debate.

The Hon. T.G. CAMERON: Thank you, Mr Chairman. What the Hon. Mr Elliott is on about here is quite clear. Whilst I think that the amendment he has moved contains a flaw, which was pointed out by the Leader of the Government, and there would be some difficulties in relation to monitoring how licensed premises set their prices for discount meals, food or beverages, and that there would be some practical difficulties with implementation, the amendment also contains a number of other clauses, such as outlawing the issuing of gaming tokens, for example. Some hoteliers around Adelaide—one in particular—offers five tokens worth $1 each, plus a free breakfast and a drink for $2.95. The Hon. Mr Lucas might have a point in his criticism in relation to the offer of food or beverages, but I do not know how one justifies giving away free tokens to people if they go in and use them to put through poker machines. You cannot cash them in; you have to put them into poker machines. I am not sure whether if, when you put in five tokens and you get a dividend, you get the money straight back, but it is quite clear that when the hoteliers give you the gaming tokens to play with they do not want you to get them back.

I understand that one hotelier here in Adelaide who was offering free gaming tokens and a free breakfast for $2.95 subsequently discovered that, because he did not place a limit on the number of breakfasts that anyone could order, when someone ordered 500 breakfasts he had no other alternative but to provide them for him. The person then went in and presumably had a good time gambling with their gaming tokens.

The intention of the Hon. Mr Elliott's amendment is to limit the practice of offering inducements to players with the primary objective of getting them into the gaming area. We know what they will do once they are there: as soon as they go through their five free tokens their hands are in their pocket and they are gambling away more of their hard earned money.

Some arguments were put forward about a nanny State. It is quite clear that we have already intervened in a number of areas in relation to gaming. I was not here when the legislation was passed, but I do not think that anyone here at the time believed that gambling would take off to the extent that it did. I do not think anybody believed that when we framed the legislation some hoteliers would be making super profits and running off and buying Rolls Royces with them. Despite what the Hon. Angus Redford says about the odd hotelier going broke, it is quite clear that the hotel industry has done exceptionally well. There have been two clear

winners and one clear set of losers in relation to gaming machines. I notice that we have a few people from the industry in the visitors' gallery tonight, chuckling away at my comments.

The CHAIRMAN: Order! The honourable member must not refer to people in the public gallery.

The Hon. T.G. CAMERON: That is another lesson I have learnt; thank you for pointing that out, Mr Chairman.

An honourable member: A slow learning curve.

The Hon. T.G. CAMERON: Yes, a slow learning curve, but do not worry: I will get there in the end. It is quite clear that nobody expected super profits to be made out of the industry. Despite the fact that some of the hoteliers are making super profits, not content with that, they have turned their inventive minds to offering a whole range of inducements. If anyone believes for one minute that the hoteliers are doing this because they feel like giving back some of the profits they have earned on the machines to the people losing the money, they should think again.

The only reason the inducements are being made is to try to entice more people into the gaming areas to lose even more money on the gaming machines. That is what it is about. You do not think that the hoteliers are doing this out of the goodness of their hearts or because they want to give cheap meals to pensioners. The Leader of the Opposition made great play about the pensioners. I agree with him: it is true that some pensioners are getting cheap meals by going to hotels, and the hotels are able to do it from the profits of their gaming machines. I wonder how many other people are not in the hotels that night because they do not have any money left to put into poker machines and so cannot avail themselves of that opportunity. I also wonder how many kids are sitting at home eating cold baked beans on toast because their parents do not have enough money to buy them a decent meal.

Those who believe that we are entering into the arena of a nanny State, because some people are genuinely concerned—and I believe that the Hon. Mike Elliott is genuinely concerned—about the level of gambling in our society, particularly the level of gambling on poker machines, ought to take some notice of what is being said here. Instead of laughing off the matter or treating the matter as a joke some notice ought to be taken of what I believe are genuine and serious attempts to try to place some caveats on the unrestricted nature of gambling which is occurring.

It is obvious that we have not seen the end of it yet. All the trend lines appear to be going up as far as gaming machines are concerned. Whilst I am not trying to deny people the right to gamble in any arena, whether it be horseracing or poker machines, I believe that this Parliament ought to take some positive action to try to limit the activities of hoteliers who are offering inducements both of a monetary kind and other kinds with the sole purpose of getting more people back to play poker machines so that they can rip more money off them.

The Hon. M.J. ELLIOTT: One does not have to count for very long to realise that the suggested new section will be lost. I am confident that we will be back in this place in two to three years with legislation which will seek to draw more lines in the sand than we currently have. A major crisis is developing which has not peaked yet—it is still probably a couple of years away—in the gambling arena, and at that point we will be forced to act. It is most unfortunate that there were supposed to have been parliamentary committees examining gaming as it expanded in South Australia. We established a select committee which, I think, fell apart at the last election, before it had taken any real evidence. Then, after the election, not much happened for quite a while, and it was then referred to the parliamentary standing committee. That committee has not reported back to this Parliament and I have no knowledge of—

The Hon. A.J. Redford: Which standing committee is that?

The Hon. M.J. ELLIOTT: The Social Development Committee. To the best of my knowledge it has not yet started on that term of reference. That is a major worry. If members can remember what happened when we passed the original legislation, there was agreement that there be an attempt to monitor the effects as they happen. It has not happened, and that is a disgrace. This Parliament had a clear understanding, and there were members of this Government who were very strongly in support of that move, to make sure that there was a thorough, ongoing investigation of gaming as it expanded. That has not happened: that is a disgrace.

There are things happening in the community that really should have been monitored and, to this stage and to the best of my knowledge, simply have not been monitored. What will happen is that we will hit major crunch time in the next two years—that is my best guess—and we will be back in this place with legislation looking at the whole area of gambling. I have no doubt that that will happen. Whether or not my amendments were the way to go, I think to stick one's head in the sand and say that there are no problems, that everybody has a choice and we will just let them go, is dangerously simplistic.

It is not about nanny States. People who care to resort to that sort of argument I think really degrade their ability to argue. Parroting off phrases such as 'nanny State' is just a little too easy and a little too glib. I am not only referring to the Hon. Paul Holloway, who used the term, because, essentially, without using that term, that is what a number of other backbenchers have been saying as well. I think that they have been treating this issue flippantly. It is a serious issue, whether or not we happen to agree on the final resolution. It is far too serious for people just to joke their way through. Despite the failure of this amendment I am sure that we will be back looking at some amendments to legislation in a couple of years and we will have a major crisis on our hands. Whether or not the parliamentary committee will have looked at the issue in that time I do not know. The fact that so far it has failed to do so is an absolute disgrace. The only inquiry we have had is a farce that was set up by the Treasurer. Why does the Treasurer set up an inquiry into gaming, its effects and the victims and then raise another $25 million in tax? You can answer that question for yourselves.

Suggested new section negatived.

Clause 9 passed.

Clause 10—'Insertion of ss. 72A and 72B.'

The Hon. P. HOLLOWAY: I move:

Page 4, lines 17 and 18—Leave out paragraph (a) and insert paragraphs as follows:

(a) as to $2.5 million—into the Sport and Recreation Fund established under this Part;

(a1) as to $3 million—into the Charitable and Social Welfare Fund established under this Part;

(a2) as to $19.5 million—into the Community Development Fund established under this Part;.

This amendment is the first of six amendments which, together, increase the distribution from the increased poker

machines taxation to charitable and welfare organisations and to sporting and recreation bodies.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Yes. I intend to speak to this amendment in detail and I will treat the following five amendments as consequential. These amendments give effect to the agreement which was reached between the Government and the Opposition after lengthy negotiations between my colleague, the shadow Treasurer, John Quirke, and the Treasurer, Stephen Baker. I would like to place on record my congratulations to John Quirke for achieving this outcome which is a vast improvement on the Government's original miserly offering for charities and welfare organisations whose activities have been adversely affected by the introduction of poker machines. I am pleased that the Government has indicated that it will accept these new arrangements.

As it was introduced into this Chamber, the Government offered only a miserable $1 million to welfare groups in the next financial year from its multimillion poker machines windfall. For weeks prior to the introduction of this Bill we were subject to a softening up process from the Government, which was willingly supported by the *Advertiser*, telling us how bad the social impact of poker machines was and how charities were struggling under the additional burden imposed by the machines. We were told repeatedly that we needed extra taxes from poker machines to deal with these social problems. The Hill report was the intellectual backstop for these arguments.

But when we got the extra taxes, which was $25 million worth, we found that most was to go straight into general revenue via a Community Development Fund and only $1 million was promised by the Government to the welfare and charitable organisations which were supposed to be suffering so badly from poker machines. Of course, this miserliness offended many decent people in our community, including some members opposite.

In the House of Assembly, the Opposition proposed that $5 million should be provided to welfare organisations. This amount of $5 million was based on the present Treasurer's own amendment to the original Gaming Machines Bill in 1992, which required that $5 million be set aside for this purpose. I would like to point out that the former Labor Government—and I think the Hon. Anne Levy gave the commitment at the time—committed itself, during the original debates, to providing $2 million when poker machines were introduced—that was $2 million from the Government's own sources.

The Hon. Anne Levy: At least.

The Hon. P. HOLLOWAY: At least; that was a minimum. As I indicated in my second reading speech, my support and I know the support of several other members at the time for the introduction of poker machines was conditional upon this undertaking being honoured. The amendments that I shall move now will set up a charitable and social welfare fund of $3 million. When that is combined with the $2 million which is now provided to the Gambler's Rehabilitation Fund by the Casino and hotels and clubs through the Independent Gaming Corporation, this will provide a total of $5 million for welfare and charitable groups from the proceeds of poker machines. I trust that this amount is adequate to ensure that the impact of poker machines upon the activities of social welfare organisations can be fully met from this source.

The Hon. Mike Elliott discussed the Social Development Committee. That committee could perform a useful service by monitoring the welfare demands attributable to poker machines and by informing us whether this allocation proves sufficient. It is interesting that the Minister for Education and Children's Services raised the possibility of such an inquiry by the Social Development Committee when he spoke to this legislation when it was first debated in 1992. As the Hon. Mike Elliott said, it would be highly desirable for that committee to look at some of these issues because, although the Hill report was very useful in providing some information, none of us can be certain just what the impact of poker machines has been upon the social welfare area. It is important that we know that.

The operation of the Charitable and Social Welfare Fund is set out in proposed new section 73B, which is part of later amendments that I will move. Whilst the financial assistance from this fund is to go to organisations to be determined by a board established by the Minister for Family and Community Services, I envisage that the assistance will go primarily to those welfare organisations which directly provide services to the families of gambling addicts or to welfare bodies whose caseload has been increased demonstrably by the introduction of poker machines. While other members might have different views about how this fund should be applied, I repeat the comments that I made during the second reading debate, that I do not see this fund as a substitute for fundraising activities for charities. It is a specific fund dealing with problems that are related directly to the introduction of poker machines.

In addition to the Charitable and Social Welfare Fund, my amendments provide for a sum of $2.5 million to go into a Sport and Recreation Fund for disbursement to sporting and recreation organisations. The clubs to receive assistance under this provision must not be holders of a gaming machine licence. In other words, clubs must choose between operating poker machines or receiving assistance from this fund, but not both.

The Hon. Anne Levy interjecting:

The Hon. P. HOLLOWAY: Exactly. The mechanics of this fund are in the hands of the Minister for Sport, Recreation and Racing, but the Minister must first consult with the Economics and Finance Committee of Parliament. In this way I hope that Parliament can have more control over the use of the funds. I envisage that the fund would provide a number of small grants, say from a few hundred dollars to a few thousand dollars, to individual clubs in contrast to the large grants to peak sporting bodies that are made by Foundation SA from the tax on smokers.

There is a huge need in the community for assistance to sporting clubs, which are battling ever-increasing costs. The assistance that many sporting clubs used to receive from local government has almost dried up these days, with huge increases in rents from sporting fields, water rates, and so on. I like to think that a fund such as this could help many small, struggling clubs to survive. Many of these smaller clubs face financial disaster if they need to do something as simple as resurface a tennis court or replace basic equipment. Unfortunately, many of the peak sporting bodies, which get funds from Foundation SA, appear to be concerned only with the elite end of their sport, which is already generally well catered for, while the lower and junior grades of sport, where participation is highest, so often miss out.

Giving assistance to peak bodies requires the same level of faith in trickle-down effects as those that were attributed a few years ago to supply side taxation reform. I have much more faith in diffusion upwards, and I hope that this much-

needed assistance to sporting bodies begins at the lowest level. By involving a parliamentary committee such as the Economic and Finance Committee in the distribution process, I have much greater confidence that funds will go where they are really needed in the community, because I am sure that most members of Parliament have at least as good an appreciation of the needs of sporting and recreation clubs in their areas as anybody else. I also note that, when this Bill passed that Chamber, the general feeling was that the disbursement of the funds to sporting clubs had overlooked many clubs at the bottom of the heap.

With the establishment of the two funds that I have described, that is, $3 million for the Charitable and Social Welfare Fund and $2.5 million for the Sport and Recreation Fund, that leaves $19.5 million of the extra $25 million to be recouped from poker machines. In accordance with the Government's Bill, my amendment allocates this remainder to the Community Development Fund within Treasury, which was the Government's original intention for the $25 million. As I indicated in my second reading speech, the hypothecation of poker machine revenue into a Treasury fund for education and health purposes is nothing more than a con job to justify this new tax grab, not that I wish to be overcritical of the Government because this tactic follows a path that has been well worn by all previous Governments. The $19.5 million might just as well be paid into general revenue, just like the other $121 million minimum in poker machine revenue that will be collected in the 1996-97 year.

The existence of the Community Development Fund will make absolutely no difference to the amount that the Government will spend on health and education next year and, in my view, the fund is completely superfluous. Nevertheless, if the Government wants to fool itself and the public that money raised from poker machines and placed into such a fund is somehow more pure and acceptable than money raised from poker machines and paid straight into Consolidated Revenue, why should we object? The important part of the amendment is that an additional $3 million will go to charities and welfare organisations that can demonstrate that their activities have been adversely affected by poker machines and that $2.5 million will be available for sporting and recreation organisations that do not operate poker machines.

In reaching this compromise position with the Government, it might be argued that different funding formula or different priorities should have been applied to the poker machine windfall. The Opposition accepts that the Government has the right and responsibility generally to allocate taxation revenue as it sees fit. The modest intervention that we seek in our amendment applies to only $5.5 million out of the minimum $146 million that the Government will reap from poker machines next year, and holds the Government to commitments that it freely gave before the last election. The amendments apply only to those organisations that have felt the greatest impact from poker machines and they do not restrict the Government from providing further compensation to affected groups if it so wishes.

The amendments recognise a widespread concern in the community that the worst of the social impact of poker machines, which affect only a small proportion of the users of machines, should have first call from the windfall revenue to be gained by Government. Let me say that I am pleased that this outcome has received widespread support in the community and I congratulate my colleague John Quirke and the Treasurer on negotiating an acceptable conclusion.

The Hon. R.I. LUCAS: The Government supports the amendment that has been moved by the Hon. Mr Holloway. I have to say that some of the criticisms that the honourable member directed towards the proposition of the Community Development Fund could equally be directed to the current proposition that is before us for three separate funds: Sport and Recreation Fund, Charitable and Social Welfare Fund, and Community Development Fund. The Hon. Mr Holloway should speak to someone such as the former Treasurer (Hon. Mr Blevins) and one or two other former Ministers in the Labor Government with respect to hypothecation and special funds. The sort of criticisms that the honourable member has directed to this Government in relation to the Community Development Fund could equally be developed about the proposition that he is moving and the Government is supporting. It is a question of goodwill and intention and, as I said, I can only suggest that he speaks to someone who has had experience as Treasurer in Government in terms of the inadequacies of hypothecation as a process and the sorts of funds that have been proposed in this amendment.

One of the downsides of the new proposition is that we now have three separate funds. As Minister for Education and Children's Services, I have some concerns that the negotiated compromise will mean less money for teachers and schools, but it is clearly much more preferable to the atrocities that might be committed by the Hon. Mr Elliott's amendments in terms of funding for schools, teachers and staff under the education budget.

The Hon. Mr Elliott's amendments would tear the heart out of the additional funding that is earmarked to go to teachers, schools and students as part of the Community Development Fund. I will reserve my comments to the amendment that the Hon. Mr Elliott intends to move in a short while and express my strong opposition to it at that time.

I indicate the Government's preparedness to support the amendment. I do not think that there is any requirement to go back over the detail of the proposition that we have before us. The Hon. Mr Holloway has outlined that in some detail. I take exception to some of his criticisms about the notion of the Community Development Fund and of additional money going into education and health as being what the Government saw as the key priorities, and I reserve my detailed comments for some of the later amendments.

The Hon. M.J. ELLIOTT: I concur with the criticisms made by the Hon. Paul Holloway. If anything, he was a little gentle. The Government set up an inquiry to look at the effects of gaming, and what comes out of the inquiry: $25 million into the Government coffers and then it announces that it will generously give $1 million of that sum to the victims of gaming. That is one of the great frauds of all time, nothing more or less. I am not saying that a tax on super profits is not worthwhile, but many people made submissions to the inquiry in good faith because they could see serious problems in the community. This inquiry operated under the auspices of the Treasurer; the Bill before us is being sponsored by the Treasurer. It was window-dressing for extra tax. Let us call it for what it was and let us not dress it up as something else: it was $25 million extra tax on those venues making super profits. To say anything else is blatantly dishonest.

The community believed that there was an inquiry seeking to look at the problems which the Government would then seek to resolve. $1 million would not scratch the sides. We are told that there was a great fight inside the Party room; the

Party room must have had a enormous con done on it by being told that the tax would be used for education, health and welfare. I have no problems with money being spent on health, education and welfare, but to set up a separate fund for that purpose was window-dressing and part of the con and snow job that was done in the Liberal Party room. There have been snow jobs on the public and the Party room. Any reasonable person would not see it in any other way. The $1 million is a farce; the $3 million in relation to welfare and charity groups is an improvement. Welfare groups have gone from receiving $1 million to receiving $1.5 million. If you talk to welfare groups about the impact that it has had upon them, they will tell you that $1.5 million will nowhere near compensate for the extra burden that they are currently carrying. I can tell you that $1.5 million will go nowhere near the extra burden that they have got because of gaming machines.

Let us not pat ourselves on the back too much and say, 'We have done a good thing.' We have done a slightly better thing than something which was a farce as far as welfare groups were concerned. Certainly, the charity groups are better off because they were going to get nothing, zero, zip, not a cracker, and now they will receive about $1.5 million of that money.

The charity groups believe that their funding has dropped anything up to $10 million. I must say that I took the view that in the long-term that is life and they will have to find other ways of raising money besides bingo. I have no doubt that it will take a couple of years for them to readjust. That was why I proposed amendments which gave them more money than proposed by the Labor Party, but also gave a cut-off period after which they would not receive extra money and the money would then go into general revenue.

I believe that there is a need for a phase period during which they must readjust their fundraising. They have more problems to face because gaming is still rising and they have not yet seen the worst of their problems. Again, the Opposition has done a deal with the Treasurer, which is a vast improvement on what was there. But let us be honest with ourselves: in terms of the impact that gaming has had on them it is probably giving them 15 to 20 per cent of what they have lost and it will take some time to make up that ground—and that is reality.

I also recognise that there were other victims of gaming machines in the short-term. There was very radical change in spending patterns in a very short period of time. Obviously, if someone is doing extremely well, someone else is doing extremely poorly. You do not have to be a genius to work that out. Small businesses, charity groups and the racing industry have been affected. The TAB took a tumble in profits; the racing industry lost about $8 million. Through the racing legislation and agreements reached with the Government, over the next two years $2.5 million is being provided. Something that I was seeking by way of amendments has been addressed in part, not through this legislation but elsewhere.

During discussions with the racing industry and other groups, I said that I was not too concerned whether the money came via this legislation or elsewhere. I thought that there were grounds for temporary increases in funding, simply to allow the industry to readjust. The Government has changed the structures of the racing boards, but it will take a couple of years before all the benefits start flowing through. They have an immediate short-term cash problem; at least the $2.5 million a year that was promised during the debate on the racing legislation will, in part, alleviate those problems.

The final victims that are clearly identifiable are small businesses, particularly those in the area of food. You do not have to be a genius to realise that a food outlet situated within 100 metres of a hotel—which is now offering meals below cost—is now in deep trouble. It is clearly impossible in these circumstances to identify individual shops and help them. I was seeking to set aside $1 million for a set period of time. That amount could have been spent via retail organisations which would have provided business advice to these people on ways to extract themselves from their business with a few dollars in their pocket and without losing their house. Business advice could have been provided to these small businesses so that they have some chance of pulling through, or at least not losing absolutely everything. I did not think it was too much to ask for. It is recognising that gaming is here for an extended period of time, but that a change in the law has had dramatic effects. A person who is working on a five year business plan and who has gaming machines come in next door would see the five year business plan quickly go out of the door. That is reality. These sudden changes in the law—and I suppose they cannot be anything but sudden—have had a dramatic impact that is really hurting some people. Whilst some people are feeling good about their business, they must realise that other businesses have gone through the hoop for exactly the same reason that they are doing well.

The question of morality arises in this, morality in terms of recognising what is happening to other human beings while these changes are occurring. It is not a simple argument about whether or not we have gaming machines and what level of tax is imposed: it is recognising that whenever there are winners, there are losers and that much is inevitable. How much do we want the losers to suffer? Are there ways of cushioning the effects, as distinct from propping up these people forever? I was asking for a little bit of decency in the way these changes occur and not asking for too much.

I will not proceed with my amendments, because the Opposition members have indicated their position, they have done a deal with the Government, and I can count. If this amendment gets up then my amendments become irrelevant, because you really have a choice of one or the other. So, if this amendment is passed I will not be moving mine. What will be achieved through the suite of amendments coming from the Opposition is certainly an improvement on what was a disgrace from the Government. Let us not kid ourselves: there are many people hurting very badly who have not been helped that much, even with these amendments.

The Hon. R.I. LUCAS: If the Hon. Mr Elliott does not intend moving his amendments should this amendment be successful, I want to place on record my very strong objection to the amendments that might potentially be moved by the Hon. Mr Elliott in relation to these matters. As I indicated, as Minister for Education and Children's Services, under the original arrangements there was certainly an anticipation that our schools, teachers and students might have benefited by as much as $12 million in additional money that we could have poured into schools and education from the increased tax take from gaming machines. The subsequent negotiations with the Opposition, which the Government is now supporting, will mean that the potential share could be as much as half the $19.5 million that is left, which is still a not insignificant sum, perhaps up to $8 million or $9 million, depending on how that money eventually is allocated to schools and to the education budget.

It is still a considerable additional sum, particularly when one is talking about the Government having to reduce education spending by $40 million over three years. Originally, we were talking about as much as almost one third of that again coming back into the education budget and now, under these arrangements, perhaps just under 25 per cent. However, under the proposals of the Hon. Mr Elliott, what he and the Australian Democrats are saying is that the bulk of that money would be ripped out of education and put into the other causes that the Hon. Mr Elliott has outlined: small business, retail businesses, the racing industry and the other causes that the Hon. Mr Elliott has championed in relation to this issue.

These comments obviously will need to be circulated, and the important point that people will need to know is that the Australian Democrats in their amendments were wanting to take more money out of the education budget, money that this Government was allocating to education and to schools, and that the result of the amendments that the Hon. Mr Elliott has been seeking to gain support for and luckily, hopefully, will not be able to gain support for in this Chamber, would have meant that the education share of the budget might have been reduced to some $3 million or $4 million. Potentially, the loss that the schools of South Australia might be facing as a result of the Australian Democrats' position in relation to this is as much as $8 million and, under the current arrangements, potentially of the order of $4 million or $5 million that might have been ripped out of the education budget by the position being championed by the Leader of the Australian Democrats, the Hon. Mr Elliott.

I am delighted at the prospect that that amendment will not pass and that we will be able to save that money for schools and for education, and save the schools from the sorts of policies that the Australian Democrats, by way of the amendment they had on file in this Chamber and were supporting, were trying to inflict upon our schools in South Australia.

The Hon. P. HOLLOWAY: I wish to make a couple of points in response to those that the Hon. Robert Lucas made just then and previously. First, in relation to hypothecation, I readily conceded in my second reading contribution the other day that there are problems with hypothecation, but the reason why we introduced this fund in the first place was that the Government did not honour its promise to provide money from its own sources to the victims of gambling. That is why we had to introduce it. I would have preferred that we did not have to set a fund. If the Government had given an indication that it would provide money to the victims of gambling, there would have been no need for us to set up this special fund. But the fact is that the Government did not do it.

It was so miserable and its $1 million originally offered so much of an insult that we really had no option. I wish to make the point that the hypothecation measures we have here are not really my first preference: I would much rather, as would most decent people, that the Government had accepted its responsibility to the victims of gambling in the first place. At this point I should also recognise the $2 million that is provided by the Casino and the hotels and clubs through the IGC. They at least accepted their responsibilities from the profits of their organisation, and they have now provided a total of $3.5 million over the past couple of years while the Government—

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: Exactly. And the Government has not, until this measure, provided one cent from its own sources. That point needs to be made. Another point that needs to be made is that under this legislation the Government will get a minimum of $146 million. It may well get a lot more and, if it does, all that money will go to education, health and whatever other purpose the Government wants it for. We are talking here about a minimum amount, so it may well be that there is much more in the kitty.

But the Minister has made this point that, through setting money aside for these funds, somehow or other there would be less money for health and education. If the Minister is genuine in this, I would like him to say what the forward estimates are for education expenditure for 1996-97, and will he indicate that this $19.5 million will be provided over and above those forward estimates for expenditure? I bet he will not, because we all know what will happen: this money will go into general revenue, the Government will work out how little it can get away with spending in these two areas and that will be what we get. That money will come out of the fund for that purpose. As I say, if the Minister is genuine about that, let him put down some figures. Will he give an indication of whether this $19.5 million will be a genuine additional expenditure for health and education? One way he could do that is to commit this $19.5 million to a purpose not now being funded out of the general education budget. So, let us see if he will do it: I doubt that he will.

I think that the Minister was a little bit unkind to the Hon. Mr Elliott's amendments. I will be opposing them—although I guess it will not come to that because the Hon. Mike Elliott is not moving them. But we all conceded that the racing industry had problems because of the introduction of poker machines, and that was well recognised the other night when my colleague the Hon. Ron Roberts moved amendments to the Racing Industry Bill and undertakings were given by the Minister in another place that he would provide additional funding for racing to offset some of the problems that industry is having. That is a far better way to proceed than this measure.

So, in principle, we have actually dealt with a point that the Hon. Mike Elliott made, and the fact that the racing industry has suffered and needs some sort of special assistance has already been accepted in this Parliament. As to small business, I concede that there has been some effect, but I really do not know how you would go about providing compensation. There are some difficulties as to how you would pay that, and I guess to some extent it is all part of competition in the marketplace. The amendments that we are putting at least hold the Government to some decent position. I also concede to the Hon. Mike Elliott that they really are just a minimum. It certainly would have been nice if the Government had been more generous but, as I indicated in my earlier speech, if the Government wishes to provide more money in these areas, if it is indicated that the need is greater in these areas, then all of us can urge the Government to provide more money where it is required. At least the amendments I have moved put a minimum into these much needed areas, and again I commend the amendments.

The Hon. M.J. ELLIOTT: The Hon. Mr Lucas could not help himself and away he went talking about my wanting to deny money to education. I do not know how many times I have to make this point: my three kids are in State schools and I know how much the money is needed in those schools. My kids have had increased music fees and reductions in offerings of subjects. They attend schools where the number of SSOs are being cut. I have seen what has been happening in schools under his ministership and under the moneys being

allocated by his Treasurer. The Hon. Mr Lucas does not need to remind me about what is happening in schools. To have the cheap shot that I was trying to deny money to education with my amendments was grossly deceptive and just a game of politics. The Hon. Mr Lucas knows very well that my amendments recognise that some genuine victims are being ignored by the Government and need help.

As far as education is concerned, the Government's whole budgetary process is up the creek. In history the Hon. Mr Baker will prove to be one of the worst Treasurers we have ever had. The fact that he has managed to screw his Ministers down does not put them in particularly good stead. The Hon. Mr Baker has been responsible for a wind-down of a State that believed in social justice, quality education, quality health, quality housing and quality transport, and he has set about destroying all that and losing some items that are very special.

The State debt in South Australia per capita was far less than the debt faced in Victoria. It is about 75 to 80 per cent the level of the debt per capita in Victoria. It is a fact that the rate of debt reduction that the Government is trying to achieve in South Australia is more rapid.

Members interjecting:

The Hon. M.J. ELLIOTT: The Victorians adopted some other novel approaches and they were not stupid enough to say that perhaps some taxes could go up. I do not know whether it should have been a flat tax, but they put a temporary tax in place for three years, and that significantly reduced debt. However, people could see what the money was being used for, the debt was being reduced and they did not have to attack services in quite the same way.

I do not agree with everything Kennett has done but, despite his reputation, I do not think Kennett has been half as brutal as this Government has been. He is certainly something of a troglodyte and rather heavy with his boots. He built his reputation on closing schools, but the types of schools he closed in Victoria were largely those which were closed in South Australia 20 years ago. They had one teacher schools within five kilometres of other one teacher schools, and he was closing those. South Australia did that long ago. Many of the supposedly tough steps that Kennett took were steps that would not have been taken in South Australia because they had already been taken under previous Liberal and Labor—

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: You are the one who made the digression. It was you who tried to argue that I was opposed to extra money going to education. I am making the point that there are other ways in which money can go to education: it is the way in which you construct your whole budget. The amount of money we are talking about would not be a significant imposition on the State budget. The Minister again was playing his games. I know from my vast contacts in the State school system that the Minister's threat to circulate the comments is no threat whatsoever because they simply do not treat him seriously. There were people who once had some respect for the Hon. Mr Lucas. I was speaking with some good friends who said they had some high hopes when he came in, and they have been dashed, and dashed very badly. The Minister can play his little games if he likes, but the amendments before this place were put forward in good faith and for good reason, and to play the cheap politics that he wants to play with them is beyond the pale.

The Hon. T.G. ROBERTS: It was clear to all members when the legislation was introduced that there would be a redistribution of income, particularly in the sport, recreation and leisure industries, and that down the track some adjustments would have to be made. Where most of us—and perhaps the industry as well—got it wrong was the amount of adjustment that would have to be made with the volumes of money that have been shifted within the recreational, hospitality and charity areas.

The Government has tried to make the elves make Father Christmas look good again. It is a case of the industry now paying a price to make the Government's coffers look good in the face of the budgetary changes that it has made.

What disappointed me was that one could see it coming up underarm. The *Advertiser* and the Government's pitch was that super profits were being made in the industry and that adjustments would have to be made. However, the adjustments were not going to be made in the industries that were starting to lose the recreational dollar that was going into the poker machines or the charities that were losing money because of poker machines: it was going to go into the Government's coffers for general consolidated revenue. When the industry was slow to react—and that is only my view—and to make suggestions of their own (for example, they may have been able to forge links with community groups and organisations representing charities at a local level, or the hotel industry through individual hotels within communities could have become like the old community clubs and sponsored community groups that were carrying out charitable activities, such as where sporting groups were trying to train juniors and obtain sporting equipment for schools and sports groups), the Government seized on the opportunity that the industry was not doing anything to redistribute income within the community so it would do so. It would take a hefty tax grab back into consolidated revenue and then, as I said, at Christmas time the Premier would play Father Christmas.

Had the elves got their act together earlier perhaps we may not have been debating some of the issues that are now before us in this Chamber. The charitable organisations and sporting bodies could have forged community development links through hotels, and the hotels and peak bodies could have got together and worked out arrangements. In that way, we could have had the hotel industry and individual hotels working with local government and those community groups and showing some leadership in relation to the distribution of some of the increased wealth that was being created by the poker machines.

This would have created stronger communal links between individual hotels and communities. We would have perhaps seen church groups and organisations or sporting groups and hotels forging closer links. Perhaps it is a bit bolshie and a bit advanced in relation to how the evolutionary process of distribution might go within a community, but I am sure that there are people of goodwill in management and ownership positions within the hotel industry who could have done a lot of that work if they were left to their own devices. Unfortunately, however, many of them probably felt that, if they took that role on themselves, they might be hit with a double whammy. They might be in there forging links with communal groups and organisations, talking to churches and charity groups and finding out exactly how communities worked, and then be hit with a super tax as well as perhaps some of the voluntary work that they might have been able to do.

So, there was a lot of uncertainty within the hotel and club industry on how to proceed and, once there was confusion in

the industry, the general view was to do nothing and wait to see what the outcome of the Government's suggestions would be. Consequently, we have what we have before us—a bit of a dog's breakfast in relation to distribution.

I support the amendments because it is the only option we have before us. However, I place on record that I am disappointed that the industry was not able to put together a package of its own. It may have tried; I do not know. It may have had suggestions put before the Premier and the Government, but it appears to me that the Government, in collusion with the media, was able to get onto the front foot to try to indicate to the public that there were huge profits out there that needed to be recouped back into consolidated revenue. The key pitch that the community wanted to correct was the amount of money which was being taken out of charities and which was moving away from sports groups and organisations, and the training of young athletes, such as footballers, cricketers—

The Hon. Anne Levy: And netballers.

The Hon. T.G. ROBERTS: And netballers—and that was not being addressed. So, I suspect that a good opportunity was missed. Many of us know that, once we start to legislate for many of these issues, we create circumstances and situations where there are still winners and losers. I suspect that the Hon. Mr Elliott and others who have contributed will find that we may be revisiting the issue in a couple of years and looking at the further impact that not just gaming machines but also gambling overall is having on the community and the distribution of income, given that the income opportunities for people to create wealth in this State are being minimised.

I will say one other thing. There does not appear to be a recognition of those organisations that are not registered charities, that is, those school groups and organisations which are now starting to feed kids. This occurred before poker machines came into the situation, and the situation has now been exacerbated, with these groups starting to provide breakfasts and sustenance in canteens for young people who are coming to school without having eaten adequate meals.

At a later date there may have to be a whole look at the redistribution of wealth, but it is not the issue associated with poker machines or gaming machines that has brought that about. Rather, it involves a whole range of issues that will have to be addressed. Some will have to come out of consolidated revenue but some may be able to be drawn out of gaming machine profits.

The Hon. R.I. LUCAS: I can understand the Hon. Mr Elliott's discomfort in relation to this issue because he has been caught on the hook by way of the amendments which he has tabled and for which he has sought support. I can only say again that the Hon. Mr Elliott has highlighted some of the reductions that the Government has imposed on the school sector in the 2½ years of the life of the Government. Through this particular mechanism we were going to be able to offer additional new money to education and schools. By way of the position suggested by the Hon. Mr Elliott, he was in fact arguing against that additional new money to schools.

The Hon. Mr Holloway put a question to me, and I can only say that he should wait with interest the State budget in May and June, because there will be a net increase of new, additional money to the education budget, in real terms, in 1996-97. So, I can only suggest to the Hon. Mr Holloway that he await with interest the upcoming budget and also the important 1997-98 budget in terms of the operations of this fund and also the overall operation of the Government budget for the next two years. I will have pleasure in discussing the issue with the Hon. Mr Holloway in the first sitting week after the budget is brought down.

The Hon. T.G. CAMERON: I was not going to speak on this amendment, but there are a couple of things that I would like to place on the record. First, just to echo the comments made by the Hon. Paul Holloway and the Hon. Mike Elliott in relation to the miserable attitude that this Government first adopted to the windfall gains that it was getting from the additional revenues from poker machines, no-one should forget that its initial offer was $1 million to go to charitable institutions. All members in this place should acknowledge the intervention of John Quirke in another place and the intervention of the Democrats, both of whom said, albeit using a different technique, that $1 million just does not go anywhere near enough towards recompensing the charitable institutions that have been under such pressure since the introduction of poker machines in this State.

I join the Hon. Paul Holloway in congratulating John Quirke in the other place for what I believe was an outstanding tactical assessment of the Government's position and its amendments. The way he pulled them together, along with the various community groups, quickly had the Government on the back foot. Congratulations should go to the Opposition and the Democrats for the way that agreement was reached in this matter. If they had not signalled their position at a very early stage, who knows? Stephen Baker may well have attempted to get away with the miserable $1 million that he offered.

I would like to comment briefly also on a somewhat pathetic attempt by the Leader in this Chamber, when he attempted to convince this place that the amendments put forward by the Hon. Michael Elliott were nothing more than an attempt to slash $8 million or $9 million out of the education budget. Quite clearly, that is a gross misrepresentation and distortion of the Hon. Mike Elliott's position, not only to his amendments but also to the Government's entire attitude towards education. Once again it clearly demonstrates to me that not only is the Leader of the Government prepared to come into this place and grossly misrepresent and distort people's positions, as he has done with the Hon. Michael Elliott, but also that in this place he has no respect for the truth. His continued attempts to misrepresent and distort the positions that people put forward are nothing more than treating this place with contempt and are an insult to the members of this Council.

Suggested amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 4, line 20—Leave out 'sum referred to in subsection (4)(a)' and insert 'sums referred to in subsection (4)(a), (a1) and (a2)'.

I do not need to speak in detail to this amendment. It is consequential.

Suggested amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 4, line 21—Leave out 'Community Development Fund' and insert 'various Funds'.

This amendment is consequential on the amendments that the Committee has just carried.

Suggested amendment carried; clause as suggested to be amended passed.

Clause 11 passed.

Clause 12—'Community Development Fund.'

The Hon. P. HOLLOWAY: I move:

Page 6, after line 26—Insert new sections as follows:

Sport and Recreation Fund

73A. (1) The Sport and Recreation Fund is established.

(2) The Fund is to be kept at Treasury.

(3) The money paid into the Fund under this Part will from time to time be applied, in accordance with the directions of the Minister for Recreation, Sport and Racing, in financial assistance for sporting or recreation organisations.

(4) The Minister for Recreation, Sport and Racing must, before giving a direction under subsection (3), consult with the Economic and Finance Committee established under the Parliamentary Committees Act 1991.

(5) The Chief Executive of the Office for Recreation, Sport and Racing must provide the Economic and Finance Committee with such information as the Committee may require relating to applications for financial assistance made by sporting or recreation organisations.

(6) Financial assistance will not be given under this section to an organisation that is the holder of a gaming machine licence.

Charitable and Social Welfare Fund

73B. (1) The Charitable and Social Welfare Fund is established.

(2) The Fund will be kept at Treasury.

(3) The money paid into the Fund under this Part will from time to time be applied by the Treasurer, in accordance with the directions of a board that must be established by the Minister for Family and Community Services for the purpose, in financial assistance for charitable or social welfare organisations.

(4) The board established under subsection (3) is to consist of 5 members—

(a) being persons who have, between them, appropriate expertise in financial management and charitable or social welfare organisation administration; and

(b) at least 2 of whom are women and 2 are men.

(5) The procedures of the board will be as determined by the Minister for Family and Community Services.

This establishes the new Sport and Recreation Fund, which I have discussed in some detail earlier.

Suggested amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 6, line 28—Leave out '73A' and insert '73C'.

This reorders the clauses as a consequence of the amendments we have just passed.

Suggested amendment carried.

The Hon. M.J. ELLIOTT: I indicate that I will not be proceeding with any of my indicated amendments to clause 12, as a consequence of earlier amendments which were passed and which would be in conflict with them.

The Hon. P. HOLLOWAY: I move:

Page 6 line 32—Leave out paragraph (a).

This is consequential on earlier amendments.

Suggested amendment carried; clause as suggested to be amended passed.

Clause 13—'Transitional provision.'

The Hon. P. HOLLOWAY: I move:

Page 7, line 8—Leave out 'there is at other times a continuous period of' and insert 'at other times there are'.

This amendment is consequential on the amendment that we passed to clause 5 last week. Members would recall that I moved an amendment that would split the six hour closure of gaming machine venues to give the proprietors an option of having one six-hour period, three two-hour periods or three two hour periods.

Suggested amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 7, line 8—After '24 hour period' insert '(which may be a continuous period of 6 hours, or 2 separate periods of 3 hours or 3 separate periods of 2 hours)'.

This amendment is consequential on the earlier amendments passed to clause 5.

Suggested amendment carried; clause as suggested to be amended passed.

Title passed.

Bill read a third time and passed.

SOUTH AUSTRALIAN MEAT CORPORATION (SALE OF ASSETS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 April. Page 1228.)

The Hon. R.R. ROBERTS: I indicate that after a great deal of discussion on this measure the Opposition will support the passage of this Bill. There has been such a long history with the running of SAMCOR and its performance over many years that it has really come as no surprise that SAMCOR is up for sale. There has been some discussion about the terms of that sale and the conditions that would apply to those people affected by the sale. I understand that my colleague the Hon. John Quirke has had considerable discussion with the unions involved and with the Assets Management Task Force, Dr Sexton in particular, and I understand that, after protracted negotiations, all the matters with respect to redundancy, sick pay and WorkCover have been successfully concluded. It is my understanding that a written agreement was reached yesterday. I congratulate the Secretary of the Australian Meat Industry Employees' Union, Mr Graham Warren, and his executive and their legal advisers.

I congratulate those gentlemen and John Quirke for successfully concluding the negotiations, which now allows for the sale of one of South Australia's assets, that is, SAMCOR. In some ways it is sad that, after being supported by the Government for 25 years, this institution comes to the position where the report discusses the tariffs for processed meats going into China reducing from about 28 per cent down to about 8 per cent. It seems to be a time when we ought to be consolidating. However, SAMCOR's performance over the past few years means that there is no longer any option but to sell it. It is to be hoped that the facility can continue to provide services for the primary producers of South Australia and a service for handling meat products in South Australia, which can only benefit us all. The Opposition supports the second reading of this Bill.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank the honourable member for his contribution to the second reading debate.

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

STATUTES AMENDMENT (MEDIATION, ARBITRATION AND REFERRAL) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1301.)

The Hon. R.I. LUCAS (Minister for Education and Children's Services): Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. R.D. LAWSON: I support the second reading of this Bill. I am in favour of the mediation of disputes and

also of empowering courts with all necessary powers to encourage parties to settle disputes at the earliest opportunity. Contrary to popular belief, the vast majority of lawyers do seek to settle client's disputes: they are not in favour of incurring crippling costs in pursuit of barren points. Most lawyers have the good sense to realise that the cost, inconvenience and stress of running most court cases to finality achieves no good purpose. Such cases usually result in a cynical and dissatisfied client. Moreover, the vast majority of cases in our cause lists are in fact settled by the parties, on the last figures some 90 per cent of them before the first day of a trial and some 96 per cent before the trial is concluded.

The object of mediation is to resolve disputes before they reach the stage of litigation. Although I support mediation generally and the measures taken in this Act to facilitate mediation, the principal reason I speak is because this Bill repeals the Conciliation Act of 1929, which was a novel experiment in law reform in this State. Ultimately it was a failed experiment, but one which, nonetheless, is worthy of note. It is not often appreciated that in 1923 there was a royal commission in this State to inquire into and report upon the introduction of law reform into South Australia. The commission comprised seven members of Parliament, two members of this Council and five members of the Assembly. The commission issued five reports between 1923 and 1927. Its second report was tabled in October 1924, and that report was on the then novel topic of a Court of Conciliation. The report stated:

> . . . according to the evidence some solicitors endeavour to bring about a settlement of the cases with which they are called upon to deal, without recourse to the machinery of the courts. It is only reasonable to suppose, and the evidence supports this supposition, that many persons are prepared to suffer injustice rather than avail themselves of the means of obtaining redress which the law courts afford. The principal objections to entering the law courts are the cost of litigation, the publicity given to domestic and private affairs, and the treatment to which witnesses are sometimes subjected in cross-examination by opposing counsel. The legal system cannot be considered perfect so long as these objections exist, and the commission have been giving their consideration to the question of how they can best be met. They have come to the conclusion that the remedy lies in the direction of mediation and conciliation.

It must be recalled that this report was written in October 1924. The report went on to mention that a system of conciliation had prevailed in Denmark and Norway for the past 130 years but that very little was known of it in Australia. The commission obtained information from the Danish Consul in Melbourne and Professor Phillipson, the Professor of Law at the Adelaide University, supplied a general outline of the Danish scheme. Further information was obtained through consular sources in London.

The report contained impressive statistics about the operation of the Danish system. For example, in 1922 there were 116 000 cases which came before conciliation courts in Denmark of which 52 per cent were adjusted or settled. The royal commission heard evidence about the costs of litigation in South Australia. It referred to evidence of a case concerning a dispute over £200, of which the costs were ultimately £2 000. All this, more than half a century ago, is remarkably reminiscent of the situation today.

The royal commission recommended that a court of conciliation be established in South Australia and that it be presided over by a magistrate and two reputable persons. It was suggested that the legislation provide that parties to a suit must appear personally before the Conciliation Court without their legal advisers, that the court have power to compel the attendance of witnesses to testify on facts, that the parties should be entitled to hear each other's statement of case, that all proceedings be conducted behind closed doors and any admissions made or overtures towards settlement be entirely without prejudice to any action that may follow in the law courts.

The Conciliation Bill was introduced in October 1929. The Attorney of the day said that he was doing so with some apprehension, and he recognised that he would be criticised in the legal profession for the measure. He said:

> The public makes demands for measures of this nature and that demand should be reasonably satisfied. The temper of the people is more and more for reconciliation and less for contest. The stride towards peace the world over is remarkable, and perhaps the most outstanding feature of the age, and what is true of nations is also true of men. The cry is against protracted litigation. It is for peaceful settlement, quick and inexpensive.

Those idealistic words were uttered more than 10 years after the end of the First World War, and it is noteworthy that those sentiments were then being expressed. The same sentiments might be expressed today. The Attorney acknowledged the role of the royal commission, which he described as the Law Reform Commission. He extolled the practice of conciliation. He said:

> Other countries are ahead of us in this. In certain States of America, in certain parts of Europe, and notably in Denmark and Norway, conciliation courts have existed for several years. In the two last named countries, the Conciliation Court is a separate institution. The parties must appear before the conciliation judge before their cases come to court, and so strong a hold has this upon the people of those countries that today, if the statistics given by the Law Reform Commission can be accepted as correct, at least one third of all litigation there is settled by this process. We propose to take up the system where Norway and Denmark have left it. We do not propose to establish separate courts. We shall engraft this proposal on our existing courts and couple it with present practice.

The Attorney did not claim great things for this measure. He saw it as a hesitant start and described it as follows:

> [The Bill] gives us a new idea at the start of which, if warranted, future Parliaments can come and build upon in the course of time. Thus, without creating any new machinery, without expense, and without disturbing the administration of the law in any way, the Bill affords an opportunity to ascertain whether the public accepts the principle of conciliation, and whether it has a future in this State. If it has, possibly further legislative provision will be required.

So the Conciliation Bill was passed into law in 1929. Section 3 of the Conciliation Act, which is the essential provision, provided as follows:

> If before during the hearing of any proceedings in any court it appears to the court either from the nature of the case or from the attitude of the parties or their counsel or solicitors that there is a reasonable possibility of the matters in dispute between the parties being settled by conciliation, the person or persons constituting the court shall thereupon—
>
> (a) interview the parties in chambers with or without their solicitors or counsel. . .
>
> (b) endeavour to bring about a settlement of the proceedings on terms which are fair to both parties.

Section 5 provided that nothing said or done in the courts of conciliation or in the attempt to settle a proceedings should subsequently be given in evidence in any proceedings or disqualify the person constituting the court from continuing the hearing if they thought fit.

Section 8 of the Act dealt with conciliation courts. It provided that the Governor may by proclamation establish such courts and determine the jurisdiction of the courts. As the Attorney mentioned in his second reading explanation to this measure, no conciliation courts were ever established in South Australia. Not only was the conciliation itself a rather pale reflection of the recommendations of the second report

of the Royal Commission on Law Reform, but it never really achieved its initial objective. Moreover, in my experience, the conciliation has been little used over the years, but it has never been completely a dead letter. Some judges or magistrates have exercised the power in an effort to conciliate. This was especially true in the Magistrates Court before the introduction of the small claims jurisdiction.

As a legal practitioner, one was always hesitant in suggesting that a judge or magistrate bring about a settlement because the same judicial officer might subsequently hear the case. There was always the fear that, if you revealed to the judicial officer that the client was prepared to accept, say, $5 000 during negotiation and the negotiations failed, the judge or magistrate would have in his or her mind that figure as the maximum that the client was going on. On the other hand, if you were acting for a defendant, you would be reluctant to reveal that your client was prepared to pay, say, $5 000 when you were maintaining a vigorous denial of liability entirely. The fear in that case was that the magistrate would believe that the defendant conceded that he was liable for something.

The decisions of the Supreme Court on the provisions of the Conciliation Act did not really encourage its use. For example, I refer to the case of *Baroutas v Limbers and Sons*, a decision of Chief Justice Bray in 1974. The case concerned an action in the local court for $2 300 for building work. The magistrate took it upon himself to interview the parties in chambers pursuant to the Conciliation Act in an attempt to settle the matter. The attempted conciliation was unsuccessful and the action resumed before the same special magistrate. The lawyer for the complainant objected to the magistrate continuing the hearing and he asked for the magistrate to disqualify himself. The magistrate refused to do so and, after the hearing, he dismissed the claimant's action. The claimant appealed to the Supreme Court and Chief Justice Bray held that, although the Conciliation Act gave a discretion to the judge or magistrate to continue the hearing after an unsuccessful attempt to conciliate, and where the discretion is exercised judicially rather than arbitrarily, the judge could still, if he had evidenced bias in the ordinary common law sense, be asked to disqualify himself notwithstanding the provisions of the Conciliation Act.

Chief Justice Bray thought that, in the circumstances of the particular case, it would have been preferable for the magistrate to have disqualified himself. The effect of this decision was to undermine the apparently clear words of section 5 of the Act, which provide that nothing done in the course of any attempt to settle should disqualify the judicial officer from continuing to act. That case was something of a disincentive to solicitors seeking to employ the provisions of the Conciliation Act.

Another decision in 1974 had much the same effect. This was a decision of Justice Hogarth in the case of *Worden v Leviton*. This decision concerned a case in which a magistrate had invited counsel to confer with him in chambers with a view to the matter being settled by conciliation. Counsel for the claimant was agreeable, but the defendant named in the action was the driver of a motor vehicle. His case was being conducted for him by his insurance company which was indemnifying him. The lawyer representing him was not only representing him in name, but also representing his insurance company. That lawyer said that he was specifically instructed not to agree to any conciliation. The magistrate interviewed the parties, including the driver, in chambers, counsel not being present. The driver was happy enough to reach a settlement; no doubt he was, because he was not paying the bill—the insurance company was.

The magistrate came back into court and recorded that the parties had agreed in chambers to a settlement and in pursuance of that settlement he entered judgment for the plaintiff. The defendant, namely the insurance company, appealed to the Supreme Court. Justice Hogarth doubted whether the magistrate had jurisdiction under the Conciliation Act where counsel for one of the parties objected to the conciliation. The judge also held that the magistrate was not entitled to take notice in open court of what had taken place in Chambers and to make an order purporting to be by way of consent unless the consent was formally taken in open court. As many cases in our cause lists involve insurance companies, this decision further undermined the usefulness of the Conciliation Act.

In the 1980s there was a renewed enthusiasm for conciliation in legal disputes. There was a proliferation of investigations and reports on the supposedly new concept of alternative dispute resolution. The drive for alternative dispute resolution was a response to perceived shortcomings in the court system. Some of the shortcomings were seen as: first, a system often plagued by long delays; secondly, a system often expensive; thirdly, a system which is very formal and which creates an atmosphere which intimidates some parties; and, fourthly, a system which relies very largely upon 'winner takes all' outcomes rather than on compromise or agreement between the parties.

I do support alternative dispute resolution and it is now widely supported in the legal profession. However, there have been some critics of alternative dispute resolution, including mediation. It is said by some that people with good causes may be forced to compromise good claims. It is also said that under alternative dispute resolutions wrongdoers can get away with paying less than rightfully due and the unscrupulous will exploit this fact by forcing claimants to mediation in the knowledge that ultimately they will have to pay less than they would if the matter went to court.

It is also said against governments that they encourage alternate dispute resolution for the wrong reasons, namely, for the purpose of saving costs. It is also said that the system will force those with less bargaining power to participate and that those parties lose the protection offered by the rules of procedure and formal judicial process. It is also said against the process that it is immune from public scrutiny because mediation does take place behind closed doors.

However, alternative dispute resolution is now well established and mediation has become a well acknowledged and accepted form of dispute resolution within it. Some mediations take place outside the court system entirely; others take place within it. It is appropriate that courts have the power to have what is termed 'court appointed mediation' or 'court administered mediation' and this measure will facilitate such mediations. It will also provide a regime for mediation which applies in much the same way across all three tiers of our court system.

The essential provisions of this Bill are that mediators can be appointed by the court and they will be accorded the same privileges and immunities as a judge and have such powers as the court determines when the mediation is established. This will give the court establishing the mediation process appropriate powers over it. The Bill provides that evidence of anything said or done during mediation is not admissible in subsequent proceedings, which is a most important and critical provision.

The Bill also provides that the judge, master, magistrate or other judicial officer who takes part in an attempt to settle an action is not disqualified from continuing to sit for the purpose of hearing and determining the matter. These are all sensible measures and, although I lament the fact that the Conciliation Act, a novel experiment in law reform in this State, has now passed from our statute books, I do commend the second reading of this Bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the Bill. It is an important piece of legislation which, as I said when I introduced the Bill, will provide on a rational and uniform basis a more structured approach to mediation and conciliation within the courts. In that respect, it is an important piece of legislation.

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

ELECTORAL (DUTY TO VOTE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 March. Page 1153.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition opposes the second reading. No matter how the Government tries to dress it up, the issue is whether or not eligible voters should be compelled to attend the polling booth on election day for the election of members of this Parliament from time to time. Usually, as a matter of shorthand, we refer to it as the issue of compulsory voting. In fact, we have a strong tradition of secret voting in this country. We have never in this country had any compulsion about the way a citizen should vote. But our Electoral Act does require eligible voters to turn up at the polling booth to have their name crossed off and to receive a ballot paper. After that point the voter has a tremendous degree of liberty about what they do with the ballot paper. They can mark it in any way they wish and they will not be penalised in any way whatever. Of course, their votes can be declared informal. I make that point at the outset so that it is clearly understood when members use the term 'compulsory voting' in this debate.

Another point I wish to make at the outset is that the Government is being stubborn in seeking to introduce this Bill when it knows it positively cannot succeed. Never mind that we have had these arguments in the 1970s and in the 1980s: the fact is that this is the third Bill in two years that has substantially the same objective. The objective is shameful. The objective is to permit eligible voters to stay at home on election day if they do not care enough to go out and vote for their own Government.

As a matter of principle, the Labor Party totally rejects the principle embodied in this Bill. The Bill undermines the duty to vote in several different ways. Most obviously, it removes the penalties for failure to meet obligations presently set out in section 85 of the Electoral Act. Secondly, the Bill permits people to remove their names from the electoral roll. The Opposition's view is that this measure will water down the duty to vote in practical terms and is, accordingly, unacceptable.

This provision is particularly odious because it paves the way for the Liberals actively and comprehensively to persuade erstwhile Labor voters, swinging voters or Democrat voters to remove their name from the roll—a campaign carried out in the name of liberal democracy. I will be interested if the Attorney could explain what safeguards there will be against such a campaign. The superficial attraction of personal liberty does not stand up to the profoundly beneficial community obligation to vote.

The other change to the Electoral Act that the Government seeks to make is to remove the penalty for failing to notify the Electoral Registrar of a change of address, consequential to a voter having applied for his or her name to be deleted from the roll. As the Attorney said in his second reading explanation, the arguments for and against compulsory voting have been debated extensively, so there is no need to repeat them at all. That is the one point in his second reading explanation with which I agree, but I will nevertheless reiterate some of the main arguments.

To begin with, there is the proposition that a democratic Government shall be the one that governs for all the people, and the best way of ensuring that politicians will be concerned about all sections of the community is to insist that all eligible voters go to vote at election time. We do not want to see political Parties or vocal minority groups hustling support for their particular narrow goals in a system that would reward them by giving them much greater parliamentary representation than their support in the total community could warrant. To put it another way, it is a matter of civic duty, a social responsibility to vote.

We say that citizens should be made to play their part in a democracy. Even then, we would not go so far as to force citizens to put a particular mark on a ballot paper, but the Electoral Act penalties serve as sufficient inducement to get voters along to the polling booth on election day, and from there the vast majority of voters do the right thing and cast a vote for the candidate or the Party of their choice.

It may be that a number of voters are simply voting for the candidates or the Parties with whom they disagree the least but, even if the vote is accompanied by cynicism and a negative view of politicians as a group, nevertheless that vote is important if we are to have a Parliament that is as representative as possible of the adult citizens of our community.

We should not shy away from the idea of social responsibility. The Parliament is quite happy to impose social obligations on citizens in a number of other areas, and the community is truly happy with that. There may be some individuals who are not happy about laws which force them to do things that are for the good of the community but, by and large, people accept laws that are clearly of benefit to the whole community. For example, it is compulsory for children to be enrolled in a primary or secondary school from the time they are six years old until they turn 15. Apart from being enrolled at the school, children of school age must actually attend school unless certain specified exemptions are applicable.

But are we about to see the Minister for Education and Children's Services introduce a Bill abolishing compulsory schooling or removing all penalties for non-attendance at school? Would the Minister bring in such a Bill on the grounds of liberty and freedom and cost to the community, which are exactly the principles that are said to be behind the Bill before us? I hardly think so. It is not a bad analogy, because compulsory education is clearly not only for the benefit of the individual student but also for that of the whole community. In the same way, we say that compulsory voting benefits the whole community by having the most representative Parliament possible.

Another example is the way we compel members of the community to take part on juries in the trial of criminal matters. Perhaps the Attorney would like to make jury service voluntary as well, although I cannot believe that he would bring in a Bill to achieve that end. Quite rightly, there would be an uproar if he did choose to do so, because it would undermine the jury as a representative group from the community and create a vehicle for those who want to push a particular viewpoint, perhaps a divisive and provocative one. So, there is another example of a civic duty that the State quite rightly imposes on citizens, not only for their own good but also for the good of the whole community.

Other major concerns with rendering voting more or less optional reflect on the practical consequences of an optional voting system. Presumably, over time we would drift back to the position in South Australia before the 1940s, when compulsory voting was introduced in this State. I believe that the turnout was about 50 per cent. Compare the 1992 presidential election in the United States: the turnout then was about 55 per cent of eligible voters, despite massive campaigns where enormous amounts of money are spent. Therefore, apart from political Parties stating their policies to the people whom they expect to vote, vast resources would need to be expended to maximise voter turnout amongst the other half of the population who would not otherwise be expected to vote. The already expensive marketing exercises associated with modern political campaigns could become even more extravagant. That can hardly be said to be in the interests of the community.

Another major difficulty is the prospect of inducements or coercion becoming a real problem. At the moment, with compulsory voting there is no point twisting a voter's arm either to vote or not to vote. If voting becomes optional we would have the prospect of Party-sponsored voter buses collecting people and dragging them off to the polling booth. You could call it a selective democracy. The converse situation would be a media campaign of 'Why bother?' directed by both the main political Parties at sections of a community that might be inclined to vote for the political opponent, if they voted at all. That sort of phenomenon is inevitable in an optional voting system and is profoundly unattractive.

Further arguments have been put in support of compulsory voting in the course of the debates on the Electoral (Abolition of Compulsory Voting) Amendment Bill 1994 and this Government's Electoral (Duty to Vote) Amendment Bill 1994. With respect to the Attorney's second reading explanation, there is one point in particular that I challenge. It is not true that Australia is one of only a few democracies that compel citizens to vote. At the last count I understand that there are about 30 democracies around the world in which voting is compulsory. Perhaps if the Attorney brings in yet another optional voting Bill I will take the opportunity to list all the examples for him.

Finally, I commend to members the contribution of the shadow Attorney-General, Mr Michael Atkinson, the member for Spence, made in the other place on 26 March 1996. In particular, his historical analysis of the introduction of compulsory voting for South Australians makes fascinating reading. Of course, it was the Liberal Premier Sir Tom Playford who introduced compulsory voting in 1942. In those days the concepts of civic duty and social responsibility were perhaps not so subject to cynicism and derision as they are today.

In closing, I would like to repeat in this place a quotation selected by the member for Spence for his recent contribution in the House of Assembly. The quotation is from *Hansard* in 1942, when the Liberal Attorney-General, the Hon. Mr Jeffries, declared:

> I cannot agree that people should not be compelled to do things which this Parliament considers are in the interests and welfare of the Government of the country. It seems to me there is a responsibility on every citizen to take part in the Government, and if he does not do it voluntarily pressure should be brought to bear to see that he does. It is regrettable that electors should be compelled to vote, but it seems that it is absolutely necessary.

I believe that those remarks stand up fairly well 40 years after they were uttered. Unfortunately, the present Attorney-General does not see eye to eye with the Liberal Attorney-General of that time. The fact is that, following the defeat of two Government Bills on the same theme within the last two years, this Bill is without merit and the Opposition opposes its second reading.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

STATUTES AMENDMENT (ABOLITION OF TRIBUNALS) BILL

Returned from the House of Assembly with amendments.

EVIDENCE (SETTLEMENT NEGOTIATIONS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

STATUTES AMENDMENT (COMMUNITY TITLES) BILL

Returned from the House of Assembly with amendments.

FINANCIAL INSTITUTIONS (APPLICATION OF LAWS) (COURT JURISDICTION) AMENDMENT BILL

Returned from the House of Assembly without amendment.

BUSINESS NAMES BILL

Returned from the House of Assembly without amendment.

WORKERS REHABILITATION AND COMPENSATION (DISPUTE RESOLUTION) AMENDMENT BILL 1996

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

RACIAL VILIFICATION BILL

Adjourned debate on second reading.

(Continued from 28 March. Page 1169.)

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contributions and support for the second reading of the legislation. The issue of whether or not to have racial vilification legislation and, if so, what form it should take is one which

raises powerful and emotive sentiments and matters upon which reasonable people can reasonably disagree. Indeed, in this Parliament we have seen a range of views ranging from those for whom such legislation is a mistake for a variety of reasons to some like the Hon. Mr Redford, who would prefer to leave the matter of racial motivation to the sentencing process, to those who would prefer court based or, on the other hand, tribunal based options. It is not surprising that the scope of debate and the variety of views held—and held strongly—in this debate reflects similar debates that have been held elsewhere in this country and in other countries. The same is true for the community at large.

I begin by rejecting what I regard as extremist positions in this debate. I hasten to add that I do not attribute these opinions to any honourable member. Extreme views are held by those whom I believe to be the tiny minority in the community who wave the banner of what they are pleased to call free speech—their free speech, of course—to say what they like, no matter how odious, inflammatory and abusive it may be. I am sure all members have been treated to examples of this, and I think I speak for us all in rejecting those views.

While free speech is highly valued in the Australian community and has, as members have pointed out, been given some beginnings of constitutional recognition by the High Court, the tradition of free speech, which we inherit and which we carry on and to which the High Court is referring, is not and never has been absolute. There have always been limits to freedom of speech. No-one is free to threaten to kill another, ruin another's life or reputation by falsehood or endanger life, and so on. The real and only question is what those limits should be and how they should be framed.

The other basic theme which I wish to touch upon is that theme upon which this whole debate is premised: the notion of racial abuse and the harm that is done by racism in this country. All speakers have referred to the existence of the more vile and loathsome manifestations of racial abuse in this country, and all have joined in abhorring it, as I do. There are perhaps differences of opinion about the seriousness and prevalence of the problem, but in the course of debate it is fair to say that there was a reasonable degree of unanimity in this place that racial vilification is not protected by the values of freedom of speech and that it is of some importance that this Chamber enact a law which makes that at least clear to those who would abuse the freedom of speech that the long traditions of law and politics in this State and this country provide and uphold.

However, there are differences of opinion about how this is to be done. The Government respects the opinion of the Hon. Mr Redford that the most desirable solution is an amendment to the Criminal Law (Sentencing) Act so that racial motivation becomes an aggravating factor in sentence, but the Government does not agree with it. The law in South Australia is that circumstances of aggravation which alter the level of applicable maximum penalty must be proven by the prosecution beyond reasonable doubt, in any event, and the result will be the same, except that the judge will pronounce on motivation of sentence rather than a jury on verdict.

Further, if the Hon. Mr Redford is right and conviction for the proposed criminal offence will martyr the Mr Branders of this world so, too, will they be martyred by being singled out for punishment in this way. The Hon. Mr Redford's view was eloquently and persuasively put but, in the end, the Government takes the view that the Parliament should not hide its strongly felt opinion in a sentencing hearing, but rather should expose it in the public light of a trial, a trial for what the Parliament really condemns.

That brings me to what I believe to be the nub of the real difference of opinion in this place. That difference of opinion is as to the worth and benefit of adding what might be described as a convenient shorthand as an equal opportunity remedy to the Bill. The merits of the equal opportunity remedy were argued with strength and conviction by the Opposition in another place, and those arguments have been repeated in this place.

I note that the Hon. Mr Nocella has on file some amendments which deal with this issue, so it will surface in Committee where, no doubt, the debate will be conducted in more detail. At this stage I do, however, want to outline in general terms the position taken by the Government in relation to this matter. Any comparison between the merits and demerits of one process of dispute resolution over another must bear in mind that each has its advantages and disadvantages and that these must be measured not in the abstract but against the specific purpose of the legislation in question.

The fundamental question is: what is the real purpose of this legislation? If I can put aside the issue of criminal offence for the purposes of this part of the debate, the question then becomes: against what kind of non-criminal racist behaviour or words is the legislation directed? At least in its early days, the New South Wales experience was that complaints made under the equal opportunity jurisdiction were principally composed of complaint made against outspoken media personalities, the aggressive talkshow hosts and in neighbourhood disputes. It is against this kind of background that the Government proposes that the non-criminal remedy lie in the ordinary courts of the land as a tort rather than via the Commissioner of Equal Opportunity. The reasons for this position are as follows:

1. The law of the land already contains an equal opportunity type of remedy via the Commonwealth legislation in the Commonwealth Racial Hatred Bill, which made significant amendment to the Commonwealth Racial Discrimination Act. So, South Australians already have access to that kind of remedy. If the Opposition could point out reasons why the Commonwealth legislation is, in this respect, inadequate or lacking, then it might have a stronger case. Those reasons should be specific, pointing to legislative gaps that it might be argued the South Australian Parliament should fill. The argument that the simple remedy proposed by the Government Bill is too expensive fails here also. Not only is it true that the alternative remedy exists, but also other expense reduction methods are in place. For example, if the claim is under $5 000, it will be resolved via the small claims process which is specifically designed to deal with minor complaints and to be accessible to the average Australian.

2. I return to the question of what and who the civil remedy is aimed at. It is all very well to argue for the benefits of conciliation and education, but conciliation and education are going to be a waste of time, effort and resources with the extreme groups which, unfortunately, we all know exist in the South Australian community. They are not conciliatory and they do not want to be educated. If what is being aimed at is the neighbourhood dispute, the ill-spoken words over the back fence, then conciliation and education may well have a role, but I repeat: the Commonwealth legislation already provides for that, and, of course, nothing in this Bill prevents the Equal Opportunity Commissioner continuing the educative work undertaken in terms of racial discrimination and

such behaviour. In fact, the platform of the newly elected Coalition Government states that:

> In government, the Liberal and National Parties will fund the $10 million two year multipronged public awareness and education campaign aimed at the objective of changing racist attitudes and encouraging tolerance and fairness; that there will be full consultation with ethnic communities, educators and other appropriate persons, and that the campaign will be directed to schools, education institutions and the wider community.

Further, the campaign will enable community workers and community leaders to better assist their members and resolve racial incidents, and understand their rights, particularly for recently arrived and older migrants of non-English speaking background. The campaign will also address the extensive ignorance and lack of understanding of ethnic communities in Australia that exist in various quarters, including the media. Why should South Australia duplicate this impressive effort rather than embrace and take part in it?

3. One of the features of the equal opportunity remedy, which in the opinion of the Government is a disadvantage in the context of racial vilification, is the requirement of confidentiality. However necessary that may be in the general context in which the methods of equal opportunity resolution may occur, it remains a fact that, as free speech advocates have it, one of the best answers to bad speech is more good speech. The advantage of taking the ordinary courts as a remedy is that it is all out in the open. Confidentiality may well be the right course where the subject matter is, for example, the extreme embarrassment of workplace sexual harassment and the education of an employer about its duties as an employer, but the Government would argue that this legislation in both its criminal and its civil guise is aimed at public acts and words. The question whether these public acts or words are, for example, reasonable public discussion or done in good faith, should be done in public also. If the Opposition is interested in education, not just of individuals but of the public, what better for public education than the public airing of those differences of opinion and of resolution? Individual private acts of sexual harassment, for example, do not have the same kind of public interest as public acts of racial vilification.

4. That leads to a more general reason for saying that the equal opportunity remedy has disadvantages. The obligation of confidentiality is one way in which the complainant loses the power to control the process of his or her complaint. In the civil courts, the plaintiff can make all the decisions about the conduct of his or her case, make settlements and so on. But the provision of the equal opportunity remedy places another decision maker in the path of resolution. The Opposition's amendments reflect this. They state that if racial vilification is alleged, the commissioner must conduct an investigation, even presumably if the complainant does not want to go on, and if it is a neighbourhood dispute that is at issue, that may well be the case. It is quite common for neighbourhood disputes not to go on because the complainant feels that intervention or further intervention may make matters worse. The same remarks apply to the Opposition's amendment to the effect that the Commissioner must refer the matter to the DPP if he or she thinks that the criminal offence may have been committed. This disempowers the complainant of racial vilification. In the case of the civil remedy by contrast, these matters lie in the hands of the complainant. It is for these reasons that the Government has produced the Bill in its current form, and I commend the Bill to the Council.

Bill read a second time.

RAIL SAFETY BILL

Returned from the House of Assembly without amendment.

ROAD TRAFFIC (DIRECTIONS AT LEVEL CROSSINGS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

CIVIL AVIATION (CARRIERS' LIABILITY) (MANDATORY INSURANCE AND ADMINISTRATION) AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 11.29 p.m. the Council adjourned until Thursday 11 April at 11 a.m.