LEGISLATIVE COUNCIL

Wednesday 19 March 1997

The PRESIDENT (Hon. Peter Dunn) took the Chair at 11 a.m. and read prayers.

SUPPLY BILL

Adjourned debate on second reading.
(Continued from 5 March. Page 1120.)

The Hon. T.G. CAMERON: I welcome this opportunity to comment on the State's finances and, in particular, on the impact that the Olsen Government's economic policies are having on South Australia. It is essential that citizens of South Australia should be fully informed when they consider the economic credentials of this Government. Today I will explain step by step the economic strategies taken by the Government, the reasons for those strategies, and why they are directly responsible for the alienation and fragmentation that society is currently experiencing. The Olsen Government has two separate economic development bodies: the Economic Development Authority and the South Australian Development Council to advise on the management of the economy.

The PRESIDENT: I do hope that the honourable member is just using copious notes.

The Hon. T.G. CAMERON: Yes. I can *ad lib* if you would like me to. Following the election of the Brown Government to office in December 1993, a review of the agencies in the economic development portfolio was undertaken by the new Government. The review recommended substantial alterations to the Government's economic development bodies. These recommendations were accepted and in April 1994 the Government announced that the functions of the Economic Development Board and the Economic Development Authority would be separated. The board was restructured and renamed the Economic Development Advisory Board (EDAB) and made responsible to the Premier and Cabinet. In October 1994 EDAB changed its name to the South Australian Development Council.

The Economic Development Authority was restructured and now operates as a Government department under the control and direction of the Minister for Industry, Manufacturing, Small Business and Regional Development. The EDA's mission as stated in its annual report is 'to achieve in partnership with the private sector the growth and development of internationally competitive business throughout South Australia.' It has three key objectives: first, to provide a comprehensive and integrated range of services and assistance to all businesses throughout South Australia, to help them attain and sustain international competitiveness; secondly, to create a unique business climate as a major competitive advantage for South Australia; and, thirdly, to identify, target and generate high quality investment in South Australia.

The Economic Development Board presented its South Australian economic development plan, titled 'Building prosperity' to the new Government in February 1994. The plan was described as 'strategic rather than prescriptive, and a distillation of considerable analysis, advice and contributions from many quarters.' The EDA's vision for South Australia is based on the creation of sustained economic growth and an economy that is nationally and internationally competitive. In order to realise the economic goals and visions in the plan it set a number of economic targets that would have to be met by the year 2000. These included the achievement of an annual economic growth rate of at least 4 per cent; annual growth in employment of at least 2 per cent; annual expansion of investment in plant and equipment of 7 per cent; and an increase in international exports from South Australia of at least $500 million each year.

The EDA offers various incentives to attract key new industries and to assist the growth of existing industries. The incentive assistance packages are significant, involving the sizeable outlay of public moneys, diversity in components, and overall assistance often extending over long periods of time. The EDA's role in attracting investment to South Australia through expensive assistance packages has come under scrutiny. In 1995 the Auditor-General noted that the EDA's record keeping processes had not recorded all financial (that is, payroll tax relief) and non-financial information, for example, status of employment, in its records. Similarly, a number of the components of the packages offered by the EDA to recipients were performance oriented, with payment based on factors such as the number of employee positions created.

The Auditor-General also found the standard of documentation provided by recipients when claiming against the components of the package to be unsatisfactory. It is not too difficult to read between the lines there. With over $100 million being spent by the EDA during 1994 and 1995 to create 5 000 jobs, it has cost South Australia approximately $20 000 for each job created. Four major projects alone cost the Government $60 million in incentives to create just 2 000 jobs; that is $30 000 a job. These were Australis pay TV operations, Motorola, BT Australia and the Westpac new loan servicing centre. It has been estimated that job creation could cost the South Australian Government as much as $200 million a year by 1997.

In the case of Westpac, the then Brown Government offered benefits that included exemption from payroll tax for 10 years; indemnifications of up to $42 million per annum for two years against higher telecommunication costs than currently in Sydney; rental subsidies of up to $78 million for the first five years; training subsidies of $4 000 per job for up to 1 000 jobs; facilitation with regard to recruitment, planning and services; and no double taxation of FID and BAD taxes. Talk about buying jobs! That is exactly what that was. The Olsen Government's investment attraction program has been criticised by the Regional Research Network for lacking coordination and overestimating the ability of the private sector to organise economic growth. The RRN suggests that the Government needs to move away from simplistic strategies involving subsidies to chosen businesses to one of broad infrastructure support.

It is recommending that some of this money that is being handed out—more often than not to interstate and overseas companies—to create jobs here would better be spent on broad infrastructure support. It argued that this form of assistance fosters competitive strengths, encourages technology diffusion and overcomes the danger of attracting footloose firms that have no long-term commitment to the region other than taking the temporary advantage of cost subsidisation.

The second economic development agency of the Olsen Government is the South Australian Development Council. The SADC's role differs from the role of the EDA in that the council is responsible for helping the Government formulate

strategy while the EDA is responsible for helping the Government execute strategy. As Richard Blandy, the SADC's Chief Executive Officer, has explained using military analogy:

> The SADC is the only general staff preparing the battle plans, while the EDA is the army in the field charged with the responsibility of executing those plans. Its role is to establish with the Premier and the Cabinet the key strategic directions and priorities for the economic development of South Australia and to identify and advise on major economic initiatives that will bring about an increase in the rate of economic growth for the State. The SADC's long-term objective for South Australia is to have a growth rate in Gross State Product by the year 2000 of 4 per cent a year, which would match the expected economic growth rate for Australia as a whole.

When one looks at current growth rates in GSP, all that I can suggest is that this Government had better put on its skates. To achieve this the SADC strategy is to further develop exports. It argues that by concentrating on export South Australia will achieve both growth and a greater degree of economic stability as the State would be able to diversify away from its dependence on the Australian market. Other long-term SADC strategies include aiming for an export growth of 15 per cent annually, progressive reduction of costs of supplying foreign markets through improved infrastructure development, reductions in Government red tape and a freeing up of the labour market.

However, a critical mid-term review of the Government by the South Australian Centre for Economic Studies released in December 1995 criticised both the EDA and SDC for competing with each other in an atmosphere of mutual antagonism and found their ministers unwilling to embrace microeconomic and national competition reforms. The report argued that the Government lacked a strategic approach to promoting business investment and criticised several of its Ministers for lacking a basic understanding of the State budget and the Government's economic strategies. That was printed in the *Australian* on 1 December 1995.

As well, in the first three years of its administration ABS figures show that the Brown-Olsen Government managed a growth in GDP of 2.5 per cent—a long way from its objective of 4 per cent by the year 2000. I have no doubt that following the next election the Government will announce a revised economic plan with lower growth forecasts for this State but, as I have said, it will wait until the election is over before it does that.

I now turn to the economic strategies of the Brown-Olsen Government. After coming to office in December 1993 the former Premier Dean Brown made restoring the health of the South Australian economy the Government's top priority. In an early speech to Parliament the Premier stated:

> I remind the House that my Government pledged to rebuild jobs, to reduce debt, to restore the standards of key Government services and to gain public respect for the institutions of Government.

I will not comment on the first three, but they have failed dismally on the last. To set the agenda and pace for economic reform the Government began by establishing an audit of commission consisting of people sympathetic to the Government's ideological position to look into the financial situation of the State. On 15 December 1993 the new Liberal Government of South Australia announced the appointment of a commission of audit to undertake a review of the State's public sector finances.

The commission's terms of reference were wide ranging. It was required to establish the actual position of South Australia's finances, including unfunded and contingent liabilities and the net value and condition of the State's assets. It was also required to compare the financial performance and position of the State's public sector with that of other States, review the operational efficiency of all areas of Government and make any other recommendations related to the financial health of the State's public sector. The report found that the South Australian post-war economy was built upon a program of attracting industry to the State. This was accomplished by offering attractions to private industry that included a relatively low cost of living, low-cost housing and other infrastructure, high tariff walls and other economic protection that created a comfortable environment for manufacturers to conduct business.

The report argued that previous South Australian State Governments had been able to keep charges to the private sector low partly due to State Government policy, as well as the favourable treatment the State received through Commonwealth financial assistance. The report argued that South Australia began to lose its competitive edge early in the 1970s when lower cost Asian countries began replacing European and North American countries as competitors for the State's manufacturing industries. From the early 1990s the South Australian economy declined even further due to the lowering of Australia's tariffs wall, a reduction in the State's share of Commonwealth financial assistance and, of course—if I did not mention this I am sure the Leader would interject and add it—the need to fund the State Bank financial bail out. This resulted in a decline in the State's population share as well as a rise in unemployment levels consistently above the national average.

However, despite this the report argued that South Australian Government expenditure continued to be higher than the national average. The report found that the level of expenditure on Government services required funding levels that could not be sustained into the future. The report concluded that if the South Australian community wanted its economy to grow and compete, it needed to accept both lower expenditure on community services and lower levels of services in some areas. The Audit Commission made a number of recommendations to the then Brown Government.

First, there needed to be a cost effective approach to the delivery of Government services through greater use of the private sector enterprises such as the old EWS, ETSA, SGIC, SACON and the Housing Trust, which should either be commercialised, corporatised or contracted out. Secondly, the Government should aim to lift the State's credit rating to AA plus in the short term and seek to regain triple A status in the long-term. Thirdly, the Government should adopt a financial strategy of removing the underlying deficit in an uncommercial public sector by 1997-98 and fully fund all superannuation liabilities. Fourthly, there needed to be reductions in public expenditure, particularly in areas of over spending such as education, health and law and public safety. Expenditure in those areas should be kept at or below the national average through fewer services and cuts to public sector employment. Finally, there should be increased use of user pays charges to cover costs of service provision and increased charges for basic services such as water, electricity and public housing. I am pleased to report that the Government implemented that last recommendation with gusto.

The commission believed that by introducing these changes the Government would restore confidence in the community and that if the financial affairs of the State were under control it would encourage and enhance private sector business activity. The Audit Commission report was severely criticised by the Audit Commission response group—an

independent grouping of academics from the University of Adelaide and the University of South Australia—for several reasons. First, it argued that the Audit Commission's analysis of the public sector was based on conservative economic thought. Therefore, the policy recommendations it contained were inevitable, its solutions predetermined no matter what the State's financial problems were. Secondly, the IRCRG believed the report over exaggerated the size and scope of the State's financial problems.

While the report argued that cut backs to the public sector were necessary to reduce debt and public liabilities to sustainable levels, the IRCRG argued that the State's debt was already low compared with post-war levels reached under the Playford and Dunstan Governments and only marginally above those inherited by the Bannon Government in the early 1980s. Thirdly, the IRCRG suggested the report's proposed recommendations for cuts in jobs and services and rises in prices of basic goods would only push the State further into economic decline. They believed the State's debt programs would be no better off and the effects of cut backs would only further hurt those who were already suffering.

Finally, they argued that the debt reduction strategies that had been implemented by the previous Arnold Labor Government would have been more than enough to pull down debt levels as a proportion of Gross State Product while reducing interest payments relative to taxation revenue. The United Trades and Labor Council, in its response to the report's recommendations, argued that the Audit Commission was nothing but a political exercise and rejected its findings for being one-sided. It believed—

The Hon. R.D. Lawson interjecting:

The Hon. T.G. CAMERON: I will come to the Hon. Mr Lawson's speech later. It believed the report's economic rationalist approach focused too much on cost cutting with too little consideration given to the service quality factors critical to many Government departments, agencies and Government business enterprises. The two volume report was completed and delivered to the Government in April 1994. The Government's first response came in a ministerial statement to Parliament by the former Premier, Dean Brown, on 3 May 1994. The former Premier told Parliament that the report was the most comprehensive audit ever commissioned by a State Government. Based on evidence contained in the report he argued:

> South Australians are $10 000 million worse off than the former Government complained and therefore South Australia could not go on living beyond its means.

We know what members opposite thought of their former Premier, so we can only assume that, like us, they did not believe that statement, either.

On 1 June 1994 the Treasurer, Mr Stephen Baker, announced to State Parliament a number of measures which had been recommended by the Commission of Audit. In all, the report contained 356 recommendations of which 273 were adopted (although I stand to be corrected on that figure of 273, because I may be slightly out in whole or in part; that figure was reported in the *Advertiser*, but I am not certain about it). The Treasurer believed that it was time for tough decisions and decisive action stating, at the time, 'Let's be clear; there are no other palatable options.'

The measures introduced by the Government were aimed at saving $300 million over four years and included: reductions to the Public Service of 5 500 employees over three years; a rise in Housing Trust rents with the introduction of means testing for tenants; the increased tendering out of Government goods and services to the private sector; a $40 million cut to the education budget with an undisclosed number of teachers to lose their jobs as well as cuts to school bus services and school concession cards; savings of some $60 million in the health system through the introduction of casemix; the contracting out of parts of the public transport system to the private sector; major changes to EWS Department operations; and the transferring of some police activities to the private sector.

Many of the key cutbacks identified earlier by the Commission of Audit were implemented by the Government in its first State budget. The cutbacks included a freeze on Public Service wages for two years; a $40 million education budget cut over four years with up to 40 schools being closed and 422 teachers being made redundant; an $85 million health budget cut over four years; a broadening of the payroll tax base to include employer superannuation contributions; the widening of land tax through the lowering of general exemptions from 80 000 to 50 000; and the shedding of 10 500 public servants through targeted separation packages to be completed by June 1997.

While the budget did promise to spend $150 million on economic development, it was mainly to the private sector in the form of direct and untied financial assistance. The Audit Commission's central recommendation to the State Government was the need for it to fundamentally reassess its role in the economy in order to concentrate on its core functions and to promote efficiency and effectiveness in service provision.

In accepting the recommendation, the Government was acknowledging that, while it had a role to play in acting as a facilitator of growth in the private sector, mainly through the provision of a competitive business environment and targeted incentives, it was essentially the private sector which should drive economic development and job creation. This acknowledgment by the Government to concentrate on what it considers to be core functions and the handing over of these areas it believes could be managed more effectively and efficiently by the private sector is the foundation on which the Government's economic policy decisions have been based.

The Audit Commission's recommendations were primarily used by the Government to justify its program of transferring State resources from the public to the private sector. The Government believed that there were two fundamentals which it had to achieve to rebuild South Australia. The first was to deal with the State Bank debt and the budget deficit left by the previous Government; the second was to broaden the economic base and to restructure the economy. The Government set about reforming economic management in the key areas of debt management, industry development and public sector reform.

I will now examine each of these in turn, and first I will deal with debt management. Between 1990 and 1993 South Australian debt increased from $4.7 billion to $8.2 billion or from 17 per cent to 27 per cent of gross State product as a result of the financial disasters of the State Bank and the State Government Insurance Office (that statement was made by Lynn Arnold back in 1993). In May 1994 the Treasurer released a financial statement which estimated the net debt of South Australia to be $8.7 billion and the underlying deficit in the non-commercial sector to be $361 million. The Government argued that reducing the State's debt would free up resources to provide tax relief—well, we have not seen much of that—fund services and infrastructure costs, improve business certainty and reduce the State's vulnerability to adverse interest rates and other economic shocks.

The Government's understanding of State debt is problematic for several reasons. First, the size of the State debt on which the Government's assets sales campaign is based lacks an adequate historical perspective. South Australian Governments of the 1950s and 1960s were prepared to tolerate much greater levels of debt to be spent on infrastructure in their bid to attract investment. I think any judge of the Playford years in this State would agree that the then Liberal Governments were prepared to tolerate much greater levels of debt, which was, by and large, poured into infrastructure development in a bid to make South Australia an attractive place to invest. That contrasts quite sharply with the attitude of this Government.

Secondly, there is a lack of recognition by the Government through the Audit Report of the effectiveness of debt reduction strategies that had already been put in place by the previous Arnold Labor Government. Thirdly, the inclusion of debts of public trading enterprises, superannuation and other liabilities provided an exaggerated perception of the debt situation and created a false impression of a financial crisis. The insubstantial gains that have been achieved through reducing the debt so rapidly need to be measured against the cost in lost jobs, business output and the well-being of the community through cuts to services. The Government accepted the Commission of Audit's recommendation that the underlying deficit be eliminated over four years as the key budget target in a process to reduce the State's debt. It also accepted the proposition that this should be achieved principally through reductions in outlays and not through increases in taxation.

To accomplish this goal, the Government has used four principal methods. It has committed itself to a process of asset sales, severe restrictions on outlays, and the privatisation and contracting out of many of its public sector functions. I will comment on each of these in turn. The responsibility for the sale of Government assets was given to three parties, each of whom was responsible to the Treasurer. The first involved the establishment of the Asset Management Task Force by Cabinet on 14 February 1994 to review the administration of the State's assets and to advise the Treasurer on their management. Secondly, the Bank of South Australia Sales Steering Committee was established in May 1994 to advise the Government on the timing and options for the sale of BankSA. As well, the Government created the South Australian Asset Management Corporation on 1 July 1994 to manage the non-core business assets of the former State Bank of South Australia.

Whilst these parties have the main responsibility for the sale of major assets, the sale process often involves the Department of Treasury and Finance, the Crown Solicitor's Office and senior management of the business being sold. A systematic three-stage methodology is used during the asset sale process. First, a scoping review identifies all issues that need to be addressed to facilitate a sale, including the value of selling the asset versus retaining it. Whilst I will not examine that in more detail in this speech I will do so in the Address in Reply later in the year, because I do not believe that the analysis that has been conducted in comparing the value of selling the asset versus retaining it by the Government has been done properly.

They also look at whether the asset should be offered as a whole or in parts and whether it should be by trade, sale or float. The second stage involves addressing all the issues identified in the scoping review such as legal, financial and technical diligences and the preparation of any necessary legislation. Finally, the sale implementation stage involves implementing the sales program to effect either a trade, sale or float. The asset sale process requires Cabinet decisions at the end of each stage before progressing to the next. Between 1 January 1994 and 1 October 1995, nearly $1.4 billion worth of assets was sold by the Government, with an eventual target of $1.8 billion by 1997. Again, I expect that figure to be substantially upgraded as soon as they can get the election out of the way. The Government has consistently argued that the reduction in debt through the sale of assets would reduce interest costs to the State by up to $200 million a year, freeing up more funds for key services such as education and health.

The claimed benefits of asset sales as stated by the Brown-Olsen Government are doubtful for several reasons. First, the once-off benefit derived from the sale of an asset needs to be weighed against the future loss of earning capacity of the asset sold. For example, in 1996-97 the net proceeds from the sale of Government-owned assets were estimated at $299 million. At the same time, receipts from Government-owned assets fell $67.7 million from $285.4 million in 1995-96 to $238.2 million in 1996-97 due to loss of revenue streams following the sale of Government businesses.

Secondly, the Government claimed that the sale of Government enterprises to the private sector would lead to greater efficiency. This ignored the fact that many Government enterprises such as SGIC and SA Timber were originally set up because the private sector was not providing the service people needed. As former Premier Don Dunstan has argued, SGIC was a good example of a Government-owned enterprise providing competition in the market to force premiums down while at the same time being profitable for the State. If anyone looks at the establishment of SGIC and the opposition mounted by the insurance industry, they can see why the industry was concerned.

Rather than being sold for debt reduction purposes, the sale of many Government enterprises can be seen as part of an ideological move by the Brown-Olsen Government to transfer resources from the public to the private sector, which it believes to be fundamentally more efficient. With regard to Government outlays, the Audit Commission found that compared with the other States South Australia was spending well above the average on public sector services without an obvious higher level of services being delivered. Shortfalls in State budgets had also led to higher State taxes and higher levels of State Government borrowings. Given this financial position, the Commissioner of Audit argued:

> The conclusion cannot be avoided that it is through outlay reductions that savings principally have to be achieved in the long run to make possible reduced tax imposts, especially on businesses.

This, plus pre-election promises of no tax increases, helped shape the Government's response. It maintained that any increase in State taxes would jeopardise efforts to rebuild the State's economy and reduce unemployment. Instead, Government policy was based on reducing spending rather than increasing taxation.

The need to stabilise the real level of the State's debt directly through budget policy, aside from asset sales, was first acknowledged by the then Premier, Dean Brown, in a statement to Parliament on 16 February 1994. The Premier argued that the budget and debt reduction strategy would boost confidence, encourage private sector investment and provide the basis for sustainable growth. An annual savings target of $300 million was adopted by the Government. The bulk of the savings were to be made in the first two financial years, with $170 million being saved in 1994-95 and a further

$100 million in 1995-96. The Government decided that substantial savings could be made in the areas of education, health, law and order, housing, urban development and public works.

The Government claimed that cutting outlays helps the rapid progress of reducing debt. That statement is obvious for several reasons. First, some of the graphical material presented in the 1995-96 budget papers, claiming to show that the Government's expenditure cuts in essential services had contributed to an improvement in the Government's financial position, was misleading. The Auditor-General found that some of the material produced in the 1995-96 budget papers conveyed an incorrect view of the matter it represented. Secondly, contrary to what the Government claimed, figures presented in the Auditor-General's Report show that the debt reduction that will occur between June 1993 and June 1999 is overwhelmingly the result of asset sales and the effects of economic growth and inflation. It is not the result of cheaper or more efficient Government.

Privatisation is the third method employed by the Brown-Olsen Government with regard to debt management. It involves the assumption by the Government that the private sector can more efficiently and economically service those sectors that were previously carried out by the public sector. Privatisation of Government-owned enterprises can take different forms. There may be full privatisation of the enterprise with a transfer to the public sector of all interests held by the Government. Alternatively, a partial privatisation may take place in which the Government retains a percentage interest in the enterprise.

The Brown-Olsen Government is fully committed to privatising what it sees as non-core Government-run assets. Bank SA, SGIC, the Pipelines Authority and Enterprise Investments Limited are among many of the Government-owned assets that have been privatised. The Brown-Olsen Government privatisation program raises a number of major issues which I will address. First, the Government claimed that the proceeds of the sale of Government-owned enterprises could be used to reduce Government debt without exploring the possibility that retention might produce better financial results than sale; in other words, an ideological commitment rather than a proper financial analysis of the asset to be flogged off.

In discussing the matter of debt management strategy in his 1993 annual report, the Auditor-General made the following comment:

> Asset sales, no matter what size, present a once-off benefit. The targeted assets to be sold will not be replaced. In respect of the proposed sales it is my view that there needs to be appropriate due diligence.

The Auditor-General argued that the dominant consideration during the privatisation process should be that taxpayers receive fair value for the public sector asset sold. In the years to come, I hope to make some comment about a number of assets which have been sold by this Government at fire sale prices, particularly when they were sold off into an economy where it is obvious that interest rates are declining. I suspect that, over the years, some of the private sector people who have bought these assets will make a financial windfall, but we will not know that until they sell them and take their profits.

The Auditor-General argued that the dominant consideration during the privatisation process should be that taxpayers receive fair value for public sector assets sold. Therefore, the privatisation process is one that must not be rushed. The need for openness is a fundamental element of public accountability. The Auditor-General said that in 1994. It is something of which the Leader of the Government should take note.

In a report examining in detail the financial implications of privatisation, Professor Walker cautions against the assumed benefits of using privatisation to retire debt, suggesting that the proceeds of privatisation do not necessarily confer financial benefits to the community. He argued that, while privatisation might produce a short-term improvement in a Government's reported budget results, in substance privatisation transactions may involve a significant loss of value to the community. This is because the loss of dividends, tax equivalent payments and other contributions can often outweigh the savings in lower interest payments made possible by using those proceeds to retire debt, particularly in an economy that has declining interest rates.

Secondly, it has been claimed by the Brown-Olsen Government that privatisation leads to cheaper and better services or improved efficiency. It was Stephen Baker who said that. This statement should be treated with caution, as generally such claims about the superior efficiency of the private sector over the public are often merely assertions. In contrast to the Brown-Olsen Government's position, Professor Walker argues that the public sector is often able to provide a wider range of services at a higher standard and at a standard price to consumers in different regions than the private sector is able to do. That is because private sector corporations often face higher financing and other costs than those in the public sector. They also have equity holders who often demand higher returns than those demanded by Government.

Therefore the replacement of public services by the private sector may leave the community open to additional costs through increased charges. There is international evidence that privatisation has not delivered on promises of improved services and lower prices. Recent studies in the UK have shown that water and sewerage prices for domestic consumers rose on average by 67 per cent in the four years after privatisation. There were also dramatic increases in the number of disconnections for pensioners and other low income earners because they could not afford to pay their bills. Over the same period, business users experienced lower real prices, and water company executive salary levels showed massive increases. The water companies also failed to invest in infrastructure, which was the justification for the price rises in the first place.

Thirdly, a number of Australian studies have provided evidence to show that privatisation commonly results in reductions in job numbers and employment conditions. This is frequently the case in the areas of cleaning, catering, aged care and home help, where the majority of employees are women and people from non-English speaking backgrounds. Losses in employment conditions included reductions in working hours, income, holiday pay, sick leave and maternity leave. There is also evidence that shows a direct connection between falls in public investment and declines in work force skills and productivity.

Finally, substantial evidence is available that suggests that the negative social and economic results of privatisation have led to increased inequality, poverty and crime. For example, in the United Kingdom, declines in the quality of health, education, social welfare and transport as a result of privatisation are well documented. I understand that Prime Minister Major has announced the election date, so in six weeks the electors of the United Kingdom will have an

opportunity to pass their verdict on how well they think Thatcher's privatisation plans have worked for ordinary Britons.

The push for privatisation is increasingly seen as a false horizon, with the Government massively underestimating the value of assets for sale and the public finding that they had to pay the cost of lucrative windfalls for managers and shareholders. This has resulted in an increasing gap in Britain between the highest and lowest paid at levels not seen for more than a century—a path I think we are walking down here in Australia. Similar conclusions have been reached by studies of the results of comparable policies in New Zealand. Between 1985 and 1992, total growth across OECD economies averaged 20 per cent. New Zealand's balance of payments deficit has grown, inflation has risen and unemployment and poverty have become structural features, with one in six people now considered to be living in poverty.

In Australia, the debate around the role of the public sector usually focuses on claims that the size of government is too big and includes assertions that public investment is crowding out private investment. It is also argued that government is inherently inefficient. By international standards, Australia's public sector is both small and efficient and is achieved from a government expenditure and revenue base that is the second lowest in the OECD. Only Belgium has lower levels of public sector investment than has Australia. The argument for further reducing the size of the public sector does not bear any scrutiny in a rational debate and can be seen to be an ideological rather than a logical position. I might add that this ideological position has been quietly put away in the cupboard until after the next election.

The contracting out of large sections of the public sector is the fourth method used by the Brown-Olsen Government to reduce debt. In 1995 the Auditor-General stated that contracting out is an arrangement whereby an external party is responsible for performing part or all of an organisation's normal business functions at a pre-determined price according to pre-determined performance criteria for a specified period of time. An important theme throughout the report of the Commission of Audit was that Governments should contract out those services that could best be provided by the private sector. The Government's response to the Commission of Audit's report was tabled in Parliament on 31 May 1994. Titled 'Financial statement', it committed the Government to the following:

> . . . a comprehensive but staged response. . . which must be premised on the overriding objective to increase private sector investment and employment in South Australia.

That was attributed to Stephen Baker. Following the release of the financial statement, the then Brown Government began to review all functions and activities undertaken within the public sector to identify and contract out those functions it believed could be conducted more efficiently and effectively in the open market. The then Brown Government argued that international experience from both public and private sectors supported its view that contracting out was effective both as a means of improving efficiency and the performance of the public sector and as a means of developing the State's economy.

Guidelines for use by Government agencies in respect of competitive tendering and contracting out were formulated by the Office of Public Sector Management within the Department of the Premier and Cabinet and promulgated in June 1995. Entitled 'All about contracting out', the guidelines identified 10 principles which need to be addressed through seven key stages of contracting out. These included the establishment of existing service costs and resources; the assessment of risks and benefits; the defining of detailed service requirements; open and effective competition; confidentiality of commercial material (that one might get a bit of a nudge today); due diligence prior to the selection of a final contractor; and the ensuring of effective arrangements, where available, for monitoring and reporting of activities that have been contracted out.

A number of matters have been identified by the Auditor-General as being of fundamental importance when assessing the viability of outsourcing arrangements. These include ascertaining the size of the customer base that receives the service as well as a geographical spread, so as to ensure that their needs are fully understood by the contractor (it would be interesting to see what comment country electors make on this Government's performance as it contracts out Government services and sees employment opportunities reduced in the country); where the proposal involves the transfer of assets and liabilities, the amounts need to be verified; the assessment of the financial capacity of potential contractors to meet contractual obligations; and the consideration of matters such as security and confidentiality of data to protect information from unauthorised access. The Auditor-General said that in 1994.

Between January 1994 and March 1996 (and these figures might not be exact, but I think they are), 1 011 contracts were awarded by the Brown Government to the private sector. Significant contracts included a nine year $565 million deal with EDS to manage nearly all the Government's data processing and maintenance. We are beginning to see how the EDS contract unravels and, if the rumours are correct, the Department of Transport may go ahead and decide to sue EDS for non-performance of its contract. Another is the 15 year $1 500 million contract with the foreign owned United Water consortium to manage Adelaide's water systems. All I can say is, 'Do not hold your breath; the water contract will unravel over the next few weeks.' Others are a 10 year contract to manage the Modbury Hospital by the British firm Healthscope and a five year contract with Group 4 Correctional Services to occupy and manage the new Mount Gambier Prison.

Have the contracting out arrangements of Government enterprises been successful? Whilst the full effects of the arrangements may take years to be felt, information is available that suggests that the supposed benefits of the contracting out of Government agencies may not have occurred. In the case of the Modbury Hospital, the concept was sold to the public as a cost saving exercise which would save the Government, and therefore taxpayers, $6 million a year in operating costs over the life of the 20 year contract. During Estimates hearings in Parliament in June 1995, it was revealed that the actual payments made in 1994-95 by the Government to the contractors, Healthscope, exceeded the budget by $7.9 million. I noticed that that was missing from the Hon. Mr Lawson's Supply speech.

The Modbury Hospital contract also came under attack from local community groups for lowering the standard of patient care. They argue that the drop in standards at the hospital was a result of the operators, Healthscope, attempting to ensure an increase in the rate of profit on investment. Why would that be any surprise? Their fears would appear to have been confirmed when, after little more than a year of managing the hospital, the company was reported in the

Adelaide *Advertiser* as trying to reduce expenses to improve the return to shareholders.

There has also been an enormous amount of debate in South Australia over the lack of availability of information on which contracts have been signed by the Brown-Olsen Government. I understand that that is about to change. For example, the South Australian Auditor-General has questioned the adequacy of information that was made available by the Government before the outsourcing decisions were made. Commenting on the process which led to the signing of the EDS information contract, the Auditor-General stated in his 1995 report:

> A satisfactory outcome in respect of cost benefits and service delivery is generally more readily achieved if the client negotiates from an early established position of firm knowledge regarding critical issues, such as in-house costs, asset identification and valuation and detailed service delivery requirements. That firm basis was not a characteristic of this particular contracting out process.

This statement by the Auditor-General was later confirmed during the 1996 annual Estimates Committees hearings when it was revealed that then Premier Brown could not put a figure on how much the Government was spending on computer work. In fact, it was revealed during the Estimates hearings that some departments and agencies would actually be paying more for computer work under the EDS deal. Estimates documents showed that the Government as a whole continued to spend millions of dollars following the signing of the contract, buying computers and software packages, indicating that the EDS contract fell short of covering all the Government's computer needs.

Other contracting out arrangements developed by the Brown Government, such as the SA Water contract, are of high value and of a long term nature. The Auditor-General noted that the contracts entered into by the Government would require constant monitoring to ensure that the target of cost benefits and stipulated standards of service provision set were achieved. The regional research network, in an assessment of the economic policies of the South Australian Government, concluded that the contracting out of Government enterprises has been based on 'selective and incomplete evidence' and was 'fraught with difficulties and potential dangers'. The Brown-Olsen Government's contracting out strategy is once again largely based on the ideological belief that economic growth is the role of the private sector. It continues to believe in both the efficiency and effectiveness of the private over the public sector, no matter what the evidence to the contrary and that the transfer of functions to the private sector will lead to improved economic performance. I will have more to say about that in August.

The Brown-Olsen Government is tackling the question of industrial development in two ways. First, it has sought to encourage to South Australia the big one-off projects such as EDS and SA Water deals by means of offering various Government inducements with the intention that the large firms would provide an economic base that would result in a trickle down effect to the State's smaller businesses. Truer words were never said when they used the words 'trickle down' because at this stage few benefits have trickled down to small business.

Secondly, the Government is attempting to build on a number of the State's core industry which were already providing world competitive export products and services and which it believes could readily increase exports to the heavily populated Asia-Pacific region. The Government, through the EDA, has aggressively sought to attract large businesses and projects to South Australia, and I gave examples earlier. The EDA in its bid to attract business has offered a wide range of confidential, financial and other incentives, a result, according to the EDA, of South Australia's having a small economy and population. It argues that the best way to attract business is either to outbid the larger States for new international opportunities or to induce interstate firms to relocate to South Australia by offering the best incentive packages.

As part of the Government's big project strategy, all new contracts were to be underpinned by the opportunities for local businesses to be able to supply and service the new firms. One would have to query that, considering the number of complaints that have come to my office. These include the construction of new premises, furnishing and package delivery as well as subcontracting of design and manufacturing work. A good illustration of the Government's big project strategy is the South Australian water contract, in which United Water took over the management of Adelaide's water supply and sewerage services.

Under the terms of the contract, United Water is supposedly committed to $628 million worth of exports out of South Australia over 10 years, and a range of small Adelaide firms is presumed to be able to link with the prime contractor to take them into Asian opportunities. In essence, the Brown-Olsen Government is relying on the one-off big projects to stoke the economic fires of the local economy so as to provide some form of trickle down benefit to the State's small businesses and to create jobs. To attract these national and international firms to invest in South Australia, the Government has provided a range of confidential enticements which include training and relocation costs, tax breaks, financial subsidies, low utility charges and the like.

In March 1995, the Brown Government accepted the development strategy proposed by the SADC. The strategy involved increasing the State's economic and job growth through the export of manufacturing and services to the vast growing markets of Asia, which the SADC argued would reduce the impact of the national business cycle on the South Australian economy. The SADC believed that the firms and industries most likely to do well as a result of such a strategy were those capable of exporting profitably from South Australia, were likely to face large growth in world demand for their products or services, were capable of evolving from existing South Australian activities and could draw on existing skills. The SADC drew up a list of a small number of core industries thought to be able to spearhead the export drive, provide synergies for the rest of the South Australian economy and support greater production levels generally. These included data processing, defence procurement, recreation, food processing, wine, pharmaceuticals, small business services, tourism and new technology manufacturing.

Former Premier Brown rejected criticisms that Government incentives were nothing more than job buying. He believed the picking up of emerging industries by the Government followed in the footsteps of classic Playford economic policy making. Well, how wrong he is on that point. No wonder you decided to get rid of him. Back on 13 July 1996, when he was still Premier, he said:

> We have given some incentives as you have to. Once you have picked your emerging industries, you need to encourage the nucleus of companies to set up here. That is what Tom Playford did with General-Motors Holden's when they were about to move interstate. Tom saw an opportunity for a new, emerging industry. He got them to stay here. If you get that sort of company here, the other support industries like the component makers will come, too.

I wonder how long Westpac will stay. How long will Galaxy stay? How long will Motorola stay as tens of millions of taxpayers' dollars are poured into enticing companies to invest in what are basically short-term jobs housed in buildings which, on a whim, can be transferred back interstate if some other State offers them a better incentive the next time they look at their contract? This statement ignores all of the mistakes made by Playford, including our narrow economic base and competition between the States, often at the expense of Australia as a whole. If we think we are going to be able to outbid Jeff Kennett for some of these projects, I suggest we go back over the past couple of years and see what has happened in that regard.

The third arm of the Government's economic strategy is the reform of the public sector. The Government believes it can make the public sector more efficient by means of micro-economic reform and through the transformation of the State's industrial relations legislation. In April 1994, the report of the Commission of Audit identified what it referred to as an 'underlying annual deficit' in the non-commercial public sector of about $350 million. The report recommended that the reduction of the deficit be a high priority for the new Government, to be achieved primarily through expenditure reduction involving cuts in public sector staffing numbers. The Government agreed with the Commission of Audit's recommendation and has used public work force reductions as one way to achieve its central target of eliminating the underlying deficit in the non-commercial sector by 1997-98, as well as reducing public sector net debt to below 20 per cent of gross State product by 30 June 1998. In 1996 Baker said:

> While most of the reductions have occurred in the non-commercial sector of the work force, as it represents approximately 90 per cent of total public sector employment in South Australia, work force reductions have also occurred in the commercial sector.

In May 1994, the Government announced that over a five year period it would reduce the public sector work force by 12 400 full-time positions—8 300 employees in the non-commercial sector and 4 100 in the commercial sector. As of 30 June 1996, the public sector work force had been reduced by 11 606 employees or 14 per cent at a cost of some $820 million. Again, Baker said:

> The contracting out and sale of Government businesses has also seen the shift of an estimated 1 100 employees from the public to the private sector.

The relative size of public sector employment to total State employment clearly shows a progressive decline in the number of State public sector employees when compared with the labour force in South Australia as a whole. The number of State public sector employees as a percentage of the labour force declined from 15.5 per cent in 1992 to 12.9 per cent in 1996.

This reduction in numbers has been achieved through targeted voluntary separation packages, the restructuring of Government agencies and the contracting out and sale of Government businesses. The Brown-Olsen Government has undertaken massive changes to the South Australian industrial relations system. The Government's agenda has essentially embraced the marginalisation of trade unions, while attempting to reregulate the industrial relations environment in the favour of employers. They are currently attempting to shift the playing field even more in favour of employers. In doing so, it endeavoured to diminish costs to business, break the solidarity of the union movement and reduce employees to a state of compliance. Might I add that, if the Government thinks it will break the solidarity of the trade union movement in this way, it has been sadly misinformed.

For those matters of the work force covered by State awards, involving approximately half the workers in South Australia, the legislation covering their employment and its regulation was covered by the Industrial Relations Act. Following selection in late 1993, the Liberal Government announced its intention to replace the exist Act with an entirely new Act. After considerable debate and changes forced on the Government by the Opposition in the Upper House of Parliament, the Industrial and Employee Relations Bill 1994 was passed and came into operation on 8 August.

Major legislative changes included provision for new enterprise agreements as an alternative to awards; provision for employers to establish enterprise unions; abolition of preference to unionists; compulsory unionism in closed shops; a restructured Industrial Relations Court and Industrial Relations Commission, including an Enterprise Agreement Division and Enterprise Agreement Commissioner, the introduction of secondary boycott laws and the setting up of an Office of Employee Ombudsman. I will say more about that later because, whilst this Government has set up the Office of Employee Ombudsman, let me say quite clearly that it is not funding it properly and, in my opinion, actions taken by the Minister have the objective of constraining and restricting the activities of the Employee Ombudsman, not assisting him in his role of helping people who are in trouble with their employers. There is also the discretion for employers to choose whether to automatically deduct union membership fees from an employee's payroll.

The new Act was touted by the Government as a safe means of curbing union influence while protecting the status of workers. The Industrial Affairs Minister at the time (Hon. G.A. Ingerson) argued that the new Act would revive South Australia's competitiveness and open the way for job creation. He believed that the framework of the previous legislation had been tried and had failed to produce outcomes necessary for the 1990s. He was reported as saying in the *Advertiser* of June 1994:

> Over the years, the system had been become unbalanced. Thousands of provisions had been put in to cater for the lowest common denominator, the bad employer who does the wrong thing, and the entire industry was saddled with an inflexible system.

As a consequence, he thought the previous system to have been both inflexible and stacked in favour of the unions. On the other hand, the Bill has been criticised for being a recipe for lower wages and conditions, particularly for the most disadvantaged workers such as women, migrant workers and then unionists. Some of the problems associated with the Bill included the following: the award no longer acted as a safety net; sacked workers received smaller payouts; and concerns over the Industrial Relations Commission. The Bill also sought to make more difficult the provision of advice and recruitment of members by trade unions; for example, the right of entry to work sites by union officials was to limit access to union members only. This left the way open for employers to demand that unions identify their members before access was allowed, leading to possible discrimination against union members.

Through the new legislation, the Brown-Olsen Government attempted not only to reduce dramatically the power of unions and workers whilst increasing the power of employers but also to increase the repressive power of Executive Government in the industrial relations arena. It should come as no surprise that it is at it again.

The Brown-Olsen Government's economic policies have broken with those of earlier South Australian State Governments in three significant ways. First, it has a completely different philosophical approach to the role of government in the economy. Previous South Australian Governments, from Playford onwards, spent heavily on public infrastructure in order to sustain and promote economic growth in the State, and have had very high levels of debt. They believed debt to be an important part of the process of development. However, the Brown-Olsen Government sees debt as a millstone around the neck of the economy.

In an attempt to repay what it believes to be a crippling debt, the Brown-Olsen Government has argued for deep cuts in Government social spending. It accepts that many services once provided by Governments would be better provided by the public private sector. This is in contrast to previous governments in South Australia which have been prepared to live with slightly higher levels of debt in the belief that it was more important for the Government to actively fuel economic activity.

Secondly, while the Brown-Olsen Government accepts that it has a role to play in acting as a facilitator of growth in the private sector, through the provision of a competitive business environment and targeted incentives, it believes that essentially it is the private sector which should drive economic development and job creation. This is the basis of the argument that the Government has used to justify its program of transferring State resources from the public to the private sector, through means of Government incentives or the privatising and contracting out of Government services.

Thirdly, while previous Governments including Liberal Governments) played an important role in assisting economic growth, on the whole they were careful to balance this with expenditure on public facilities and services to maintain social harmony, as well as building our infrastructure in order to attract business to this State. The Brown-Olsen Government, while placing enormous energy into assisting private profitability for business, has at the same time reduced social spending. The Government argues that South Australia can no longer afford to spend above average amounts on community welfare and infrastructure, while previous Governments had believed that it made good economic sense as well as higher quality of life for the State citizens to do so. When one considers our level of unemployment and the recessed state of the small business sector in our economy, one can easily see why previous Governments have supported that course of action.

I am coming to the conclusion of my speech, which will no doubt please those members of the Government who have bothered to stay here and listen to it. I know that you, Mr President, have attentively listened to every word.

I also note with some interest that the Hon. Robert Lawson referred to the Arthur D. Little report in his speech on this Bill. Before concluding my contribution, I would like to make some comments on what he had to say. The honourable member was correct about the report on two appointments: first, the ADL report has almost been completely forgotten about; and, secondly, it did indeed paint a bleak picture for South Australia, unless the State became economically competitive and export oriented. However, unfortunately, that is where the current Government's understanding of the recommendations contained in the ADL report ends.

Although the Olsen Government recognises the importance of globalisation on the State's economy, in the main it sees it as a positive. This is despite the fact that the ADL report clearly identifies that globalisation poses threats, as well as opportunities, for the South Australian economy. The Olsen Government appears to have little or no real understanding or analysis of the potentially negative impacts of globalisation, and it has simply opened the door to try to get as much international investment capital as possible.

If one goes back and has a look at some of the grievance speeches made to this Council by the Hon. Trevor Crothers, one sees that he has been attempting to warn this Parliament and the State about some of the matters for many a long year. I might add that the Olsen Government has paid little attention to some of the warnings that the honourable member has made in his speeches. The Olsen Government has ignored important recommendations made in the ADL report regarding investment attraction which were based on the best models available world-wide. Instead, it continues to use an open chequebook policy to attract companies *ad hoc* to South Australia.

Secondly, despite the ADL report listing a shared commitment, an economic vision, between the public and private sectors to be one of the critical success factors for the future of the State's economy, the Olsen Government has argued that market forces should be allowed to determine the major industries and economic activities of South Australia. This type of thinking can be self-defeating, as it forces firms to cut down on research and development, training and long-term investment and instead compete on the basis only of prices and products, in direct competition with less developed Asian countries, where wage costs are one-tenth of that of South Australia. Of course we will be able to compete with South-East Asia if we reduce our wage costs here by approximately 80 per cent!

Thirdly, notwithstanding the ADL report's recommendation that South Australia should change its base of competition from one of price to quality, service, speed and image, and from mass markets to niche markets, the Olsen Government has continued to rely primarily on offering whatever subsidies or tax breaks are necessary in order attract investment to South Australia. Economists have criticised this decision by the Government, believing it will force South Australia into competing with other States in a Dutch auction.

The Hon. T. Crothers interjecting:

The Hon. T.G. CAMERON: That is correct, the Hon. Mr Crothers. The quote is:

> Whilst supermarkets compete through cost and price wars, sophisticated economies compete on quality, design and superior performance. . . Olsen's fistful of dollars approach to economic development may mean that South Australia is destined to remain a 'rust-belt' economy, characterised by continuing population loss and decline.

Finally, the ADL report argued that the role which the public sector played in the economic development strategies of the State were crucial to its success. It saw an important role for the public sector in the State's development, while at the same time recognising that public sector reform was needed to achieve world best practice in service delivery. This is a view not generally supported by the Olsen Government. It has a simplistic economic view that the public sector is generally inefficient and therefore as much as possible should be either privatised or sold off, irrespective of the consequences. More than any other State in Australia it is contracting out services and selling off Government-run assets. That is a quote from the *Advertiser*.

While previous Labor and Liberal South Australian Governments have generally been pragmatic in their approach

to the economy the Olsen Government has, to some extent, abandoned that pragmatism and is locked ever more rigidly into following conservative economic orthodoxy.

The results of the Government's economic policies were covered in my Address in Reply speech of October last year, but I would like to reiterate one point. The price that has been paid for this Government's economic policies has been carried largely by those who can least afford it—the battlers in the northern, southern and western suburbs, as well as those people in the country.

The people of South Australia have an enormous amount of commonsense and at the forthcoming State election they will let this Government know in no uncertain terms what they think of its economic policies. The current strategies of the Olsen Government should be seen for what they are: a simplistic response to the State's economic problems based on an advocacy of ideologically driven free market solutions, rather than any real analysis of South Australia's financial and economic position. I support the procession of these Supply Bills.

The Hon. J.F. STEFANI secured the adjournment of the debate.

TOBACCO PRODUCTS REGULATION BILL

Adjourned debate on second reading.

(Continued from 18 March. Page 1210.)

The Hon. R.D. LAWSON: I support the second reading of this Bill, the objects of which are set out in clause 3 and which most reasonable people would agree are appropriate. The clause provides that, in recognition of the fact that the consumption of tobacco products impairs the health of the citizens of the State and places a substantial burden on the State's financial resources, the objects are as follows: first, to create an economic disincentive to consumption of tobacco products and to secure from consumers of tobacco products an appropriate contribution to State revenues by a scheme under which licence fees will be payable by consumers who take out consumption licences; secondly, tobacco merchants who choose to pay an *ad valorem* licence fee will free consumers from the licensing requirement for the consumption of tobacco products obtained through such merchants.

The clause also provides that an object of this Bill is to reduce the incidence of smoking and other consumption of tobacco products in the population—especially young people—by requiring health warnings; by prohibiting the supply of tobacco to children; by encouraging non-smokers, especially young people, not to start smoking; by prohibiting or limiting advertising, sponsorships and other practices which promote and publicise tobacco products; by providing funds to sporting or cultural bodies in place of funds that might otherwise have been received through tobacco advertising and sponsorships; to protect non-smokers from unwanted and unreasonable exposure to tobacco smoke; and generally to promote and advance sports, culture, good health and healthy practices and the prevention and early detection of illnesses and disease related to tobacco consumption. These are laudable objectives and are deserving of the support of this Council.

The need for the legislation arises because of certain legal and constitutional requirements. This legislation will repeal the existing measures relating to the same subject matter and combine them into one single measure which contains certain improvements. The two pieces of legislation being repealed are the Tobacco Products (Control) Act of 1986 and the Tobacco Products (Licensing) Act of the same year.

It is well known that the capacity of States to raise licence fees on tobacco is the subject of a constitutional challenge. That case was being heard in the High Court last week. There is in that case a challenge to the tobacco licence fees applying in New South Wales. It is there being argued that the licence fees are a sales tax which the States do not have the power to levy, and it is also claimed that the licence fees breach section 90 of the Constitution because they are in fact duties of excise which only the Commonwealth has power to levy. The effect upon State revenues of an adverse result of that case would be substantial, and it is appropriate that if the case is decided against the States we have in place a satisfactory measure which will enable the State to maintain the programs that are already in place.

One must be, after viewing recent cases in the High Court, somewhat sanguine about our prospects of success. Justice Kirby, a new judge on the court and a judge who was not a party to the earlier decision in the Capital Duplicators case, has indicated outside of court in a public address that, as I read it, he is sceptical of these licence fee schemes. So, it is necessary for legislation to be put in place.

In listening to some of the second reading addresses, it is apparent that some members wish to go behind the existing legislation and query the need for any regulation based upon the allegedly harmful effects of tobacco smoke. As I heard the Hon. Jamie Irwin, the Hon. Anne Levy and the Hon. Angus Redford in their contributions, there was a challenge to the fundamental assumptions underlying this type of legislation. The Hon. Sandra Kanck described the issue as an emotional issue, and listening to the debate last night I think she is correct in that assessment. It seems to me that more emotion than rationality was poured on to the issue. I also heard in relation to this measure, and read in the debates of the other House, more emotion than rationality than I have in any other issue since I came into this place.

The Australian Labor Party chooses to describe the legislation as just a tax grab. That is its emotional response—'Just a tax grab'. It is not that at all: it is a responsible measure to ensure that we have in this State appropriate measures, notwithstanding whatever constitutional difficulties might arise from the existing legislation. The Hon. Ron Roberts says that the process by which this Bill has proceeded has been a Barnum and Bailey three-ring circus. That is not a fair analogy, but if he wants to use circus analogies it is appropriate to say that the Government has been engaged in a balancing act and the Minister is to be congratulated for having the courage to walk the highwire on this issue, given the emotional responses that are produced in some members of the community. The Minister for Health is to be congratulated; he is walking the tightrope seeing this measure through.

To take the analogy further, it seems to me that it is the Hon. Ron Roberts who is the clown in this issue. He is the court jester. As the *Advertiser* revealed this morning, the Hon. Ron Roberts has naked ambitions to unseat his Leader. Both he and the Hon. Terry Cameron (mentioned in the same article) seem to be keen to be the lion tamers in this matter and they might find the tiger has more bite than they counted on.

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: That is right. The Hon. Terry Cameron obviously wants to be the trapeze artist in this act. The Hon. Paul Holloway made a more sensible contribution

but he, too, fell for the rhetoric about this simply being a tax grab. That might be quite good out in the community, but a close examination of the measure indicates that it is not at all a tax grab.

On my own side of the Chamber, the Hon. Jamie Irwin—whose views I respect—did verge on the emotional when he described this measure as indicating the nanny state. He revisited a lot of scientific papers—or one might say pseudo-scientific papers—about the harmful effects of smoking, on the one hand, and those which suggest that smoking is not harmful and certainly those which suggest that environmental tobacco smoke is not harmful. He referred to the mortality figures which have been quoted by some in support of this legislation. Frankly, I am sceptical about much of the material that has been put out by both the pro and anti smoking lobbies. I do not think the mortality figures greatly assist in the resolution of this debate. No doubt, it seemed a good idea to those who wanted to use the emotional slogan 'smoking kills'. It may have seemed a good idea to them to talk about mortality figures, but I tend to agree with the Hon. Jamie Irwin that they do not prove anything.

However, mortality figures are not the issue. The issue is about the quality of life of those who smoke and those who have to ingest the smoking of others. Many smokers, of course, live to a very old age. Some, however, do not live to such an age and my own father, who was a heavy smoker, died at the age of 66 and I believe that, if he had not been a smoker, he would have lived many more years than that. I, myself, was a smoker for about 20 years and I think any smoker will accept that smoking certainly might be a very enjoyable pursuit—as I found it to be—but it certainly cannot be said to be a pursuit that enhances one's health or wellbeing.

Of course, the litigation that has occurred in recent years was trotted out by both the pro-smoking and anti-smoking proponents. The decision of Mr Justice Morling in the Federal court case *The Australian Federation of Consumer Organisations v. The Tobacco Institute* is always cited on one side or other of this argument—very often on both sides. It is worth reflecting for a moment upon the substance of that litigation because the consumer and anti-smoking groups claim that it means one thing and, of course, the Tobacco Institute claim, it means entirely another. The Tobacco Institute points out that some of the comments made by the judge in the case were subsequently not upheld in the appeal court. This case concerned an advertisement which was inserted by the Tobacco Institute and which claimed, amongst other things, 'There is little evidence and nothing which proves scientifically that cigarette smoking causes disease in non-smokers.'

The Federation of Consumer Organisations (AFCO) alleged that this advertisement contravened section 52 of the Trade Practices Act which proscribes misleading or deceptive conduct and that claim was upheld. The judge, in a very lengthy judgment, said that it was misleading and deceptive to claim that there was little evidence and nothing which proves scientifically that cigarette smoking causes disease in non-smokers. That was the decision of the judge. That decision was appealed against; the appeal on that ground was dismissed. However, the judge did go on to make a number of findings which it might be thought were pseudoscientific findings, not only findings based upon the scientific evidence as presented but also upon his assessment of the totality of that evidence. The appeal court was critical of the judge's undertaking that exercise.

His Honour held that the applicants in the action had established that it was misleading and deceptive to state in 1986 that there was then little evidence that cigarette smoke caused disease in non-smokers. He went on to say that, so far from there being little evidence that cigarette smoke caused lung cancer in non-smokers, there was much evidence to that effect, and he spoke of the evidence of a link between passive smoking and lung cancer that came from both epidemiological studies and strong biological plausibility. That decision, which is claimed by both the tobacco lobby and the anti-smoking lobby as resolving the issue, did not really resolve it in a scientific sense. Clearly, the anti-smoking lobby caught out the Tobacco Institute on that issue.

However, the boot was on the other foot in recent litigation decided as recently as December of last year, when Justice Finn in the Federal Court of Australia, in proceedings instituted by the Tobacco Institute against the National Health and Medical Research Council, found that the processes of the National Health and Medical Research Council were less than satisfactory and that due process had not been observed. One might interpose that the fair inference from the decision is that some members, at least, of the committee of the National Health and Medical Research Council were engaged in a crusade in which they were quite prepared to sweep under the carpet any evidence contrary to the opinions that they were seeking to espouse. In the event, the judge upheld the Tobacco Institute's claim, at least in part, and required the National Health and Medical Research Council to adopt a more scientifically neutral approach.

I am no apologist for the anti-smoking lobby nor for the tobacco interests; this is an issue on which one ought to stand back and take with a grain of salt the claims of both sides. That brings me to the measures in this Bill that will prohibit smoking in certain enclosed public dining or cafe areas. For convenience I will refer to this as the ban on smoking in eating areas. This ban is an appropriate measure and it is appropriate that it be in this legislation. It is worth recalling that this Bill is an amalgamation of two pieces of legislation. The existing legislation already contains a prohibition against smoking in lifts, in entertainment venues and in some other places.

The Hon. J.F. Stefani interjecting:

The Hon. R.D. LAWSON: The Hon. Julian Stefani says 'aircraft', but it is not aircraft; it is public transport. Of course, there is Federal legislation that prohibits smoking in aircraft on domestic flights. Section 13 of the Tobacco Products (Control) Act provides that a person shall not smoke a tobacco product in a lift. One does not imagine that there is any scientific evidence to suggest that any person ever suffered any health detriment in consequence of ingesting smoke from someone in a lift. That would, frankly, defy commonsense. Notwithstanding that, in 1986 it was felt appropriate to ban smoking in a lift. That can only be on the basis of the comfort and convenience of the passengers of a lift.

Likewise, it seems to me very unlikely that any person suffered any lasting or significant health detriment by ingesting the smoke of others at some place of public entertainment during a performance. No doubt, it might be suggested that those who have to work in those places constantly might suffer some health detriment from environmental tobacco smoke. But the ban on smoking in places of public entertainment, which has already been in our law for 10 years, was a measure that seems to me to have been promoted for the convenience of patrons. Likewise, the ban

on smoking in buses, contained in section 12 of the Act, which provides that tobacco products shall not be smoked on buses that are carrying members of the public. These are existing measures that are designed to reduce the nuisance of tobacco smoke, and it seems to me to be a natural extension of those measures to include eating areas.

This is a matter on which public opinion changes over time. I am reminded of the fact that in the nineteenth century it was very common in both public and private places and across all social classes for people to expectorate, to spit, and that that practice remains widespread in many countries of the world. I am also reminded of an account given in *The History of Manners* written by Elias and published in 1980, that in Elizabethan England the free exercise of flatulence, even amongst company, was considered normal and not proscribed by considerations of politeness or offensiveness. So, mores and manners change over years. No-one these days would think it appropriate behaviour in Australia to sit across the table whilst other people are eating and blow smoke in their face. That was a common enough practice only 10 or 15 years ago.

One's own experience shows that these days smokers do not behave in that manner because it is accepted that it is an offensive nuisance. It is appropriate in these circumstances to give encouragement to eating establishments to enforce what are really only good practices, good manners and the removal of nuisances. This measure, it seems, can be justified on that ground, even if one chooses to ignore the so-called evidence that is trotted out about the harmful effects of tobacco smoke. It must be said in fairness that there is a great deal of material on this point. We are often reminded of the celebrated United States Environmental Protection Agency Report of 1992, a report entitled 'Respiratory Health Effects of Passive Smoking: Lung Cancer and other Disorders in Children'. That report found:

> Widespread exposure to environmental tobacco smoke in the United States presents a serious and substantial public health impact.

There are other reports published by, among others, the World Health Organisation's International Agency for Research on Cancer in 1985 and Australia's National Health and Medical Research Council's 1986 report. Frankly, bearing in mind the result of the decision by Justice Finn only last year, one would have to say that some doubt has been cast upon the *bone fides* of the National Health and Medical Research Council, or at least the methods of some of its committees. There was also the United States Surgeon-General's report, 'The Health Consequences of Involuntary Smoking, 1986'. In the United Kingdom there was a report in the same year from the Independent Scientific Committee on Smoking and Health, and there have been other reports from many medical agencies, including the Royal College of Physicians of London, in 1992.

Leaving to one side all those health reports, it still seems that this ban on cigarette smoking in eating areas, provided it is appropriately drafted, can be justified as an appropriate response and an appropriate provision in an Act which is, among other things, seeking to discourage people from smoking, making smoking less attractive, and making it an activity which, while people are free to engage in it, is not something glamorous. There are changing notions of what is acceptable behaviour and it seems that smoking whilst other people are eating is inappropriate.

The Hon. T. Crothers: Is flatulence an exception?

The Hon. R.D. LAWSON: Indeed, and I have quoted the Elizabethan times when it was apparently thought appropriate to engage in that conduct. However, it is not now, nor is it a sufficient problem, nor is it even arguably a health risk, nor is there any reason why there ought to be any regulation of it because the good manners of people presumably do not make it a problem.

I turn to comments made by the Hon. Sandra Kanck about the complexity of this measure. It is a complex measure because it has been made necessary by reason of the constitutional requirements to which I earlier referred. The honourable member read into *Hansard* a legal opinion from Clayton-Utz, the solicitors for the Tobacco Institute, and that opinion suggests that the licensing regime will not work in South Australia and consumers will be obliged to obtain a consumption licence at the rather modest cost of $600 per annum.

In practical terms the tobacco merchants and the tobacco industry will not require their consumers to obtain a consumption licence. The companies will obtain the appropriate licence that the measure contains and, although the licensing requirements are now divided into class A and class B licences, somewhat different from those applying under the preceding regime, the legal opinion of Clayton-Utz should be seen for what it is, namely, a somewhat alarmist prediction of what might happen in some theoretical circumstances. It is clear that the tobacco industry will not force its customers to purchase consumption licences.

I regret that it is necessary to go through the device of so-called consumption licences in this legislation. One would have hoped that a less artificial device could be thought of and, in fact, one could adopt other devices. In all events the Government has chosen to continue the device already in existence. It may be appropriate for that to be changed after the High Court rules in the current litigation.

One should not be frightened by the scare tactics of either the tobacco interests or the health zealots. Nor should we be deterred from this measure on account of its undoubted complexity. It is appropriate for the 'higher tar equals higher tax' regime: that is a sensible measure and one that makes the Bill less open to challenge on constitutional grounds. It is important that the economic disincentive to smoke be maintained. That is what we have in our present legislation and what we have in this new Bill.

I now refer to Foundation SA, now Living Health, because some members both in this place and in another place have attacked Living Health. Whilst there is some justification for some of the comments made, overall they are perhaps too stringent. Foundation SA publishes a very informative report, tabled in this Parliament annually, and those who claim not to have seen it or a copy of it cannot have looked too far. I note that in the 1996 report, the last tabled, the change of name of Foundation SA is explained. Frankly, I do not believe that Living Health is a terribly good name if the message sought to be conveyed by this body is an anti-smoking one. It is a little too oblique or subtle for the general population. It is certainly too subtle for those at whom the campaign should be directed.

The Quit campaign in Victoria, with its slogan, 'If you smoke, you are a bloody idiot,' or whatever, has a very good and direct message. In this State we have not sold the message with sufficient clarity. In the annual report, the General Manager's report records that the suggestion had been offered by many that the name should be changed to something which 'better reflected its role in health promotion'. The General Manager went on to say:

The research confirmed a low brand awareness of Foundation SA and that brand equity was low and confusable with other agencies. This presented a unique opportunity to develop a name which would not only be a more effective corporate identity but which would have a strategic value through representing the benefit and value of being healthy. Identifying a name which would address strategic marketing issues as well as representing a corporate identity was a complex task, however, one embraced by the board and staff alike.

Those few sentences are replete with much jargon which does not inspire much confidence, certainly in me, that the name selected will be any more successful than that which it replaced. It is a curious thing that this body, which dispenses a vast amount of money, adopts frankly whatever name it seems to want, with the approval of the Minister. It has a formal statutory name in the Act of Parliament which creates it and which is continued under this legislation, namely, the South Australian Sports Promotion, Cultural and Health Advancement Trust. Sometimes Living Health might lose sight of the legislation, because the Tobacco Products (Control) Act, which establishes the trust, sets out its objectives, and, when the board itself publishes its aims, they do not really seem to be tied too closely to those of the legislation itself.

Undoubtedly Living Health has contributed substantially to health promotion. In the 1996 report one sees very detailed statistics of the grants made to a number of community agency health promotion programs. The organisation is defined in each case, as is the amount and description of the program. Not insignificant amounts are given to many worthy organisations. Conferences are supported to a somewhat lesser extent. Local health promotion demonstration initiatives are supported, and a number of major health projects grants have been given. There were also a number of other substantial projects. For example, the 1996 Quit program, which was a smoking and health project, received $588 000, and a smoke-free areas project received $100 000. The total spent on those projects was some $1.1 million.

A number of other agency promotion grants, strategic development health initiatives and a large number of sport sponsorship allocations took up some $3.9 million. There were also a number of recreational sponsorship allocations totalling some $700 000. Arts and cultural sponsorship allocations took up some $1.93 million. Once again, the organisations, the amount received, and the projects in respect of which the payments were made are all detailed in the report.

I have seen some criticism in another place of the fact that, for example, the South Australian National Football League, hardly a struggling organisation, hardly one that is under funded, received the most substantial sponsorship of all—some $340 000. I am not inclined to criticise that sponsorship, as were some others, on the basis that that organisation can well raise sponsorship dollars. If Living Health considers that $340 000 with the football league is well spent because of the exposure gained from signs and other things at Football Park and because of the television rights and any other considerations, it seems to me that is an entirely appropriate thing for that body to undertake. It is easy to say that the money could have been better spent, but I think that the criticism of the organisation for not providing more detail of its activities is unreasonable.

I turn now to clause 47 of the Bill, which contains the specific measures to provide in essence for the prohibition of persons smoking in enclosed public dining or cafe areas. There has been some criticism of the amendments that have been made. There has been public criticism of the fact that the Government agreed to make a number of concessions to those who have a vital interest in the operation of this measure. It seems to me that that criticism is misguided. The Government and the Minister are to be congratulated on adopting a flexible and sensible approach to ensure that this measure will, in the first place, achieve its stated aim, namely, of reducing the nuisance that occurs from smoke in eating areas, whilst at the same time accommodating those who have to operate in this industry.

It is a balancing act and it requires fine balance and a sense of judgment. The Ministers who have been involved in this process are to be congratulated. I will comment during the Committee stage on some of the particular aspects of clause 47. I support the second reading.

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

[Sitting suspended from 12.58 to 2.15 p.m.]

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on notice be distributed and printed in *Hansard*: Nos 40, 63, 68, 73, 110, 117, 128, 136, 138, 142, 143, 145 to 149, 165, 167, 168, 170, 171, 173, 177 and 185.

TRANSPORT, UNEMPLOYED CONCESSIONS

40. **The Hon. T.G. CAMERON:**

1. What has happened to the proposal made by the Minister whilst in opposition on 23 February 1992 to extend the unemployed travel concessions scheme to country areas served by licensed bus operators?
2. Have the concessions been extended?
3. If not, why not?

The Hon. DIANA LAIDLAW:

1. Contrary to the assertion in the honourable member's question, no proposal was ever advanced by the opposition in 1992 to extend transport concessions to unemployed persons in country areas.

However, on 12 August 1992 I asked a question in the Legislative Council, and issued a press release, calling on the Bannon Government to examine the feasibility and cost of extending transport concessions to the unemployed in non-metropolitan areas. The reply from the then Minister of Transport Development, Hon. Barbara Wiese on 15 October 1992 avoided any endorsement of such an initiative, advising that the matter . . . 'is not a new issue', . . . that 'the issue is under constant review' and that the concession was estimated to cost . . . 'around $550 000 per annum'.

2. No.
3. The matter is being reviewed by the Passenger Transport Board's Standing Committee on Non-Metropolitan Transport.

ROAD SAFETY

63. **The Hon. T.G. CAMERON:**

1. Will the Federal Government's recent announcement to cut the Federal Office of Road Safety education programs by 50 per cent affect road safety education programs in South Australia?
2. How much funding will South Australia lose?
3. Will the State Government make up any shortfall and, if not, why not?
4. How much will the State Government be spending on Road Safety education programs for the year 1996-97?
5. How much was spent for the years—
   (a) 1993-94;
   (b) 1994-95;
   (c) 1995-96?

The Hon. DIANA LAIDLAW:

1. No. The Federal Office of Road Safety provides no funding towards South Australia's public education programs.
2. Not applicable.
3. Not applicable.

4. The State Government spends money on road safety education programs in a wide range of areas targeted at reducing the road toll. Some areas, such as school-based education and recidivist drink driver treatments, are difficult to quantify. Others, such as the publication 'Road Traffic Code' studied by novice drivers, have an educational content but are not included as part of the road safety education program.

In 1996-97, DoT's road safety education budget, including administrative costs and salaries, is—

Office of Road Safety	$2 125 000 (including $850 000 approved by the Motor Accident Commission Board 6/12/96)
BikeSouth	$150 000
Safe Routes to School	$100 000
Total	$2 375 000

In addition, SA Police and the Department of Education and Children's Services resource school-based road safety advertising programs. In 1996-97 education measures to be undertaken by the Traffic Safety Section, SA Police involve expenditure of $300 000 for Youth Driver SA and some $400 000 for community police school-based activities.

On 25 November 1996 I announced additional funding for road safety initiatives which includes—

- $150 000 for School Road Safety Curriculum;
- $80 000 in addition to the $150 000 already allocated for 1996-97 for Bicycle Safety Education ('Bike Ed'—bicycle education for primary school children $200 000. 'Share the Road'—development of concept $30 000); and
- $50 000 for a CrashCare program to provide instruction in first response by the public at road crash sites.

5. The amounts spent previously by DoT were approxi-mately—

1993-94	$712 000	(includes $63 000 from SGIC)
1994-95	$1 212 000	(includes $405 000 from SGIC)
1995-96	$1 151 000	(includes $310 000 from SGIC)

EMPLOYEE RELATIONS ACT

68. **The Hon. T.G. CAMERON:** As the number of unfair dismissal cases in South Australia are approaching 1 500 per year, will the Minister for Industrial Affairs introduce legislation to amend section 62 of te Industrial and Employee Relations Act 1994 to delete the bracketed phrase 'other than in proceedings for unfair dismissal,' as well as increase the resources available to the Office of the Employee Ombudsman so that it is able to handle these matters expeditiously without unnecessarily hindering its other duties?

The Hon. K.T. GRIFFIN: Section 62 clearly represents the intention of Parliament for the Employee Ombudsman to provide representation in all industrial matters, but not unfair dismissal matters. At the time this section of the act was first debated, the Parliament accepted the reasoning that with approximately 1 500 unfair dismissal matters in South Australia per year, the resources of the Employee Ombudsman and his staff should not be unnecessarily directed to unfair dismissal matters, at the expense of providing proper representation to employees in other industrial matters, especially enterprise bargaining.

The Government does not have any intention at this stage of reviewing this aspect of the legislation. It should be noted that a number of registered agents specialising in unfair dismissal representation have recently increased service availability to dismissed employees, as well as services for registered associations and lay and legal advocates.

It should also be noted that a review of the legislation will be necessary once the Commonwealth's Workplace Relations and Other Legislation Amendment Bill 1996 has passed. This review will be necessary as a result of the Commonwealth introducing the function of 'Employment Advocate' which has some similarity to the SA Employee Ombudsman function, although there are some essential differences. On the basis of the Commonwealth's Bill, it is unlikely that this legislative review will consider the provision of representation in unfair dismissal proceedings.

WESTERN MINING SHARES

73. **The Hon. SANDRA KANCK:**

1. Has the Minister for Education and Children's Services owned any shares in Western Mining Corporation at any time since 1 July 1996 and, if so, how many?

2. Has the Minister had an interest in any trust that held shares in Western Mining Corporation at any time since 1 July 1996 and, if so, what kind of interest?

3. Has the Minister's spouse owned any shares in Western Mining Corporation at any time since 1 July and, if so, how many?

The Hon. R.I. LUCAS:

1, 2, and 3. No.

RED LIGHT CAMERA REVIEW COMMITTEE

110. **The Hon. T.G. CAMERON:** When will the Minister for Transport release the report by the Red Light Camera Review Committee which identifies opportunities for the improvement, current status of new technology and recommends ways to most effectively deploy red light cameras, as stated on page 39 of the Department of Transport Annual Report, 1995-96?

The Hon. DIANA LAIDLAW: The report prepared by the Red Light Camera Review Committee is now being assessed by the Department of Transport and the SA Police. Consideration will be given to the release of the report when I receive the outcome of this assessment.

STEAMRANGER

117. **The Hon. T.G. CAMERON:**

1. Is SteamRanger currently suffering any financial difficulties?

2. If so, what are the nature of these difficulties and what steps have been taken to rectify the situation?

3. Has the Government received any requests from the SteamRanger management for further support or funding?

4. If so, how much and for what purposes?

5. Will the Minister investigate allegations that—

(a) there has been a significant loss of volunteers as a result of dissatisfaction with SteamRanger management?

(b) the lack of response to requests for changes in SteamRanger's timetable which, if implemented, would suit tourists better?

(c) insufficient manning of the Mount Barker station, especially over the weekends, so that potential passengers can get information on the tourist railway?

The Hon. DIANA LAIDLAW: The Minister for Tourism, who has responsibility in Government for oversighting the operations of the Australian Railway Historical Society operating as SteamRanger, has provided the following answers to the honourable member's questions—

1. Yes, but SteamRanger is currently solvent and financially viable.

2. The former Federal Government's funding package for the standardisation of the Adelaide-Melbourne rail line did not include funds to continue dual gauge rail operations from Adelaide to Mount Barker. Subsequently, SteamRanger has faced extraordinary changes brought on by the involuntary relocation of their depot and operations from Dry Creek to Mount Barker in 1995-1996.

SteamRanger resumed a weekly Sunday operation from Mount Barker to Victor Harbor in May 1996. Regrettably ongoing repairs to their fleet of steam locomotives necessitated the use of a diesel on the first series of trips until mid-September 1996, when steam loco. No. 520 became available for service.

In order to re-establish market confidence, SteamRanger maintained a service each Sunday last year, until the beginning of fire bans on 1 December 1996.

Operating diesel hauled trains in the middle of winter from the Adelaide Hills to the coast reduced passenger demand. With the re-introduction of large power steam locomotion and an improvement in weather conditions, passenger loadings lifted considerably. Eight carriage trains (with a capacity of up to 400 passengers) operated on the final two Sundays in November 1996 to cope with demand at the end of the steam operating season.

Running such trains includes an element of risk. Like similar operating societies, SteamRanger must carry adequate insurance cover. During 1996, an initial quote of some $30 000 for public liability and products insurance was withdrawn and a new premium of approximately $78 000 sought by underwriters. Of all the quotes considered, this proved to be the most competitive, and in order to continue operating services, SteamRanger was left with no alternative but to pay the premium. This is being financed by a commercial business loan repayable on a monthly basis.

It is expected SteamRanger's cash flow position will be greatly enhanced by the operation of the very popular *Cockle Train* services

between Goolwa and Victor Harbor from late December 1996, through January 1997. These trains have always been well patronised by holiday-makers and visitors to the South Coast.

The SteamRanger Management Committee receive and consider financial reports on a monthly basis. Work is prioritised according to the availability of funds, and resources—both human and material.

A very comprehensive annual report (a copy of which has been sighted by the SATC) covering the period to 31 December 1995, was published by the Australian Railway Historical Society early in 1996 and a statement summarising SteamRanger's financial position as at May 1996, was distributed at a Special General Meeting convened on 25 July 1996.

A marketing and business plan is currently being prepared and will be considered by the SteamRanger Management Committee in the near future. The findings of a comprehensive survey of passengers on *Southern Encounter* services during 1996, will be incorporated in this plan.

The Management Committee is constantly examining initiatives designed to encourage greater numbers of passengers to undertake different rail related experiences, for example, package tours involving travel by rail connecting with cruises from Goolwa.

Talks have been held with the Fleurieu Tourism Marketing Manager, Chris Burchett, with a view to broadening the distribution of information on SteamRanger products—especially in interstate markets.

Recent initiatives have included the successful operation of a vintage 'Red Hen' railcar working short shuttle trips from Mount Barker to Philcox Hill and return during the October school holidays, and on each Wednesday during January.

On Saturday evenings during January a service called the Penguin Express operated from Goolwa to Victor Harbor and return offering patrons the opportunity to travel to Granite Island for a twilight tour including the Penguin Interpretive Centre.

3. Like other clubs and associations, SteamRanger Management continually seeks opportunities to advance its case through submissions when relevant Government funding schemes become available.

One such opportunity is the *Active Clubs Grant program* administered by the Department of Recreation and Sport, and funded by some of the revenue accruing to Government from gaming machine turnover.

In the category of 'minor capital works' SteamRanger requested a grant of $20 000 to complete a portion of the carriage shed at the Mount Barker depot to improve the working environment for volunteer workers. SteamRanger is prepared to commit $10 000 in cash, and 'in kind' labour valued at $4 000 to the project. The submission has the support of both Mount Barker Council and the local Member for Kavel.

No approach has been made by SteamRanger to any Government authority to underwrite any losses which may be incurred by operations on the Victor Harbor Tourist Railway.

SteamRanger Management are keen to avoid a mendicant 'begging bowl' approach; their objective being to develop self-sufficiency in all aspects of their operations.

4. There is one specific issue which SteamRanger is currently discussing with the Department of Transport (DoT)—the magnitude and cost of relocating from Dry Creek to Mount Barker which exceeded earlier expectations.

Four carriages, heavy machinery, track panels, and palletised stores still remain to be moved to Mount Barker. Assistance from DoT to effect the final transfer of all material to Mount Barker is being sought.

5.(a) There has been no significant loss of volunteers as a result of dissatisfaction with SteamRanger Management—or, contrary to perception—because of the relocation from Dry Creek to Mount Barker. Less than 10 people decided not to continue as volunteers when the move to Mount Barker was made. Offsetting this small loss, new volunteers—some from the Adelaide Hills area—have come forward and offered their services.

Matters relating to the level of insurance premiums have been put to two special meetings of members in the latter half of 1996. On both occasions there was overwhelming support from members for the recommendations of the Management Committee.

(b) SteamRanger's timetable is subject to constant review. Presently there is a slight aberration as the bus service from Adelaide does not connect with the 10.30am train departure from Mount Barker on Sundays as it is scheduled to arrive 5 minutes after the train's departure. If passengers are on this bus service, SteamRanger is advised in advance by mobile phone and the train is held for 5-10 minutes for a connection to be made.

Ongoing discussions are being held with various interested parties regarding timetabling. However, it is felt that the current scope of the operation from Mount Barker to Victor Harbor represents the best possible set of times for the overwhelming majority of intending passengers.

(c) During the operating season (May to the end of November each year), the Mount Barker Station is staffed from 10 a.m. to 3 p.m. Monday to Friday. Outside these months, the hours are 10 a.m. to 2 p.m.

In busy times, staff are in attendance Saturday mornings to handle inquiries for the train the following day.

Generally, inquiries for travel by train are made by phone, rather than in person at Mount Barker. When the station is unattended a comprehensive phone message gives information on the *Southern Encounter* (Mount Barker-Victor Harbor) service, and more particularly at this time of the year, details of times and fares for the *Cockle Train* service between Goolwa and Victor Harbor. Callers are invited to leave their name and number so that SteamRanger staff can return the inquirer's call.

There is also the wider issue of the provision of general tourist information covering the Mount Barker and Hills area. Talks have been held with Mr Barry Wilkens, Mount Barker Council Tourist Officer, regarding the provision of a volunteer organised visitor information service based in the railway station. If such a presence can be arranged, it will lead to a better spread of hours at the station than is possible at present.

As there is only a very small core of paid personnel, SteamRanger is to be congratulated on the manner in which the relocation from Dry Creek to Mount Barker has been effected, and their efforts in re-establishing a very professionally run tourist train service over 80 kilometres of line between Mount Barker and Victor Harbor—an ambitious project for a predominantly volunteer based organisation.

SOUTHERN EXPRESSWAY

128. **The Hon. T.G. CAMERON:**

1. Will the Government accept the overwhelming support of southern Adelaide residents for a second arterial road, by extending Dyson Road and building a new bridge over the Onkaparinga River to connect with Commercial Road at Port Noarlunga South?

2. If not, why not?

The Hon. DIANA LAIDLAW: As the honourable member would be well aware, the Government is committed to the $120 million Southern Expressway. Construction of the Southern Expressway is to be completed between Bedford Park and Main South Road, just north of the Onkaparinga River, by the end of 1999.

Further improvements will also be considered along Main South Road south of the Expressway. The Southern Expressway will greatly improve access for residents of Seaford and other areas, to the Noarlunga Centre, Lonsdale and to the City. This will lead to a shift in traffic which will be further supported by improved linkages to Main South Road via Griffiths Drive and Seaford Road, with a connection between the Southern Expressway and Beach Road to serve the Noarlunga Centre. The construction of the Southern Expressway replaces the need for the $45 million Dyson Road Extension in the foreseeable future, as it will result in a considerable change in traffic patterns. The role of the Dyson Road/Commercial Road link, as a major north to south corridor, would diminish.

Whilst I appreciate the views of residents along Gray Street and Murray Road, it would be difficult to justify the Dyson Road extension in the shorter term. The Southern Expressway provides benefits to a wider portion of the community, including these residents whilst at the same time it avoids the major areas of the estuary that are environmentally sensitive and may be of Aboriginal heritage significance. However, as a result of residents' concerns, the corridor will be retained for transport purposes and its need reviewed once the Southern Expressway has been completed.

The programmed works associated with the Gray Street re-alignment are designed to bypass the historic centre of Port Noarlunga and to replace the Saltfleet Bridge. Further, as a result of concerns by residents at the first workshop held by RUST-PPK Consultants on 4 November 1996, the Department of Transport will now extend its project scope to include a safety audit of Murray Road and Dyson Road south of Beach Road. The aim is to provide the road user with a better facility while addressing the safety problems and improving the amenity for local residents along these sections of road.

The consultation phase will continue with regard to these projects and departmental officers will be pleased to discuss any resident's concerns as and when the need arises.

PASSENGER TRANSPORT BOARD

136. **The Hon. T.G. CAMERON:**

1. Did the Passenger Transport Board (PTB) call for tenders for 8-East, 12-Circle Line, 9-North West and 5-LeFevre Peninsula (tender call 3) in March 1996, as outlined on page 40 of the Metropolitan Adelaide's Transport Services 'Tender Information' September 1995?

2. How many tenders were received by the PTB and from whom?

3. If not, when was the process scrapped?

4. Why was it not announced?

5. Were industry representatives, such as Serco and TransAdelaide, informed?

6. Did the PTB call for tenders for 11-Inner South, 10-South West and 13-Port Marino (tender call 4) in September 1996 as outlined on page 40 of the Metropolitan Adelaide's Transport Services 'Tender Information' September 1995?

7. How many tenders were received by the PTB and from whom?

8. If not, when was the process scrapped?

9. Why was it not announced?

10. Were industry representatives, such as Serco and TransAdelaide informed?

11. When was the decision made to hold the review announced in the Minister's Press Release of 26 July 1996?

12. Did the PTB make the decision to scrap the tender process or did the Minister direct/consult with the PTB?

13. Who conducted the review?

14. When did it commence?

15. When was it completed?

16. Who was consulted/involved in the review?

17. What was the outcome of the review?

18. Will the report be released publicly?

19. Why did the Minister decide to speed up the contracting out process before the Report had been released?

The Hon. DIANA LAIDLAW:

1. No.

2. Not applicable.

3.&4. As the honourable member may recall when the outcome of Tender Call 2 was announced on 26 July 1996 I also announced—

- that a mid-term assessment would be undertaken of tender progress and processes; and
- that the PTB would explore with TransAdelaide the potential to negotiate agreements to capture some of the new ideas for service benefits and economic development which have been generated by competitive tendering.

5. Yes.

6. No.

7. Not applicable.

8 & 9. See 3. & 4. above.

10. Yes.

11 to 16. The decision to hold the assessment was made prior to the announcement on 26 July 1996, following consultation with the PTB. The assessment undertaken by my Chief of Staff commenced in August 1996 and was completed in September 1996 following discussion with representatives from the PTB, TransAdelaide, Serco, Hills Transit, British Bus, Stagecoach, Busways, Mainline, City Transit, Bus and Coach Association, Department of Transport, Department of Treasury and Finance, Department of the Premier and Cabinet, Department of Industrial Affairs, Public Transport Union, Australian Services Union, Amalgamated Metal Workers Union and the Tender Evaluation Committee.

17 & 18. The assessment concluded—

- that competitive tendering of bus operations had realised significant new service initiatives for passengers and significant savings for taxpayers; and
- that if the PTB could capture the same level of benefits for passengers and taxpayers by negotiated contract, this option should be pursued on the understanding that if no agreement could be reached the competitive tendering schedule would be re-activated.

Cabinet endorsed these conclusions in October 1996. Subsequently the PTB and TransAdelaide signed negotiated contracts and services operating under the terms of these contracts commenced on 12 January 1997.

19. This did not occur.

TRANSADELAIDE, TELEPHONES

138. **The Hon. T.G. CAMERON:** As the Minister stated at the Estimates Committee hearings of 21 June 1995 that TransAdelaide would be progressively introducing telephones on buses and trains through a sponsorship program so that passengers could call family or taxis to meet them at their destination, who have the sponsors been and how many telephones are currently available for passenger use on Adelaide's buses, trains and trams?

The Hon. DIANA LAIDLAW: Telephones are already available on a number of TransAdelaide trains and buses.

More than 40 passenger service assistants operating throughout the rail network carry mobile phones, which members of the public can use to call ahead if there is genuine need. This cost is covered by TransAdelaide.

All NightMoves buses, operating on Saturday night/Sunday morning, have mobile phones which customers can use. This cost is covered by sponsorship. NightMoves services have been generously sponsored by the Motor Accident Commission since they were first introduced in 1995 and that sponsorship continues.

Hills Transit, a fully-owned subsidiary of TransAdelaide, has mobile phones on all buses operating after 7.00pm, seven days a week. Hills Transit absorbs this cost.

Now that the negotiated contract process has been virtually completed, TransAdelaide is about to introduce mobile phones on services it operates across the majority of metropolitan Adelaide.

These will be available for use after a certain time, for instance 7 p.m., so customers can call ahead to arrange for a taxi, or a friend or relative, to pick them up etc., increasing safety and security.

With regard to Serco, all of its tenders incorporated the establishment of a Taxi-call facility on buses operating after 9 p.m. The Taxi-call service has been introduced in both the inner and outer North contract areas. Any passenger who requires a taxi service can request the bus driver to arrange a taxi to meet them at any requested bus stop. Serco has an arrangement with Suburban Taxis which incorporates a direct line from Serco's control centre to Suburban Taxis.

DRIVERS' LICENCES

142. **The Hon. T.G. CAMERON:**

1. Following the national road law reform recommendation, will the Minister introduce legislation requiring drivers to carry their licence at all times while driving?

2. If not, why not?

The Hon. DIANA LAIDLAW: At the June 1996 Ministerial Council on Road Transport meeting in Canberra, Transport Ministers agreed, subject to the provision of various exemptions for certain classes of drivers, to adopt as a National standard the compulsory carriage of licence by all licensed drivers. Thus the agreement will allow those States and Territories that do not now require compulsory carriage of licence, to continue their existing practice. New South Wales is the only jurisdiction to require compulsory carriage of licence for all drivers.

In South Australia at present, bus and taxi drivers are required to carry their licences when driving as a condition of their accreditation and it is a condition of licence for 'L', 'P' and heavy vehicle drivers to carry their licences when driving. Other drivers who do not carry their licence are required to produce it to a police station within 48 hours if requested to do so by a police officer.

BUSES, OVERCROWDING

143. **The Hon. T.G. CAMERON:** In relation to a Ministerial Statement to the Parliament on 2 April 1996 that the bus and coach industry, in conjunction with the Passenger Transport Board (PTB), were investigating a system to address overcrowding on buses—

1. What were the findings of the committee?

2. Has the bus and coach industry/PTB report been released?

3. If not, when will the report be released and will the Minister make it available publicly?

The Hon. DIANA LAIDLAW: The Passenger Transport Board (PTB) in consultation with the Bus and Coach Association and Bus Industry Advisory Panel have considered a range of issues relating to overcrowding. Of particular concern is the question of when

overcrowding actually occurs. This is important so that appropriate strategies can be implemented to deal with incidents as they arise.

While it is acknowledged that overcrowding is not a significant problem for the bus and coach industry in South Australia at the moment, the issue has been identified as a key area for future monitoring by Department of Transport Inspectors on behalf of the PTB. The bus and coach industry will support this initiative by reporting observed incidents for investigation.

I am advised that at this time no report has been prepared on the issue of overcrowding.

MOTOR VEHICLE REGISTRATION

145. **The Hon. T.G. CAMERON:**

1. Between 1 January 1996 and 30 June 1996 how many six cylinder motor vehicles were registered for six and twelve months and how much revenue was raised from each?

2. Between 1 January 1996 and 30 June 1996 how many eight cylinder motor vehicles were registered for six and twelve months and how much revenue was raised from each?

3. Between 1 July 1996 and 31 December 1996 how many six cylinder motor vehicles were registered for three, six and twelve months and how much revenue was raised from each?

4. Between 1 July 1996 and 31 December 1996 how many eight cylinder motor vehicles were registered for three, six and twelve months and how much revenue was raised from each?

The Hon. DIANA LAIDLAW:

1. Between 1 January 1996 and 30 June 1996, 144 728 six cylinder vehicles were registered for six months. The total fees collected, which comprised the registration charge component, Compulsory Third Party insurance premium, stamp duty on insurance, stamp duty on value and number plate fees, were $28 984 757. There were also 87 143 six cylinder vehicles registered for twelve months, with total fees of $39 003 304 collected.

2. Between 1 January 1996 and 30 June 1996, 27 110 eight cylinder vehicles were registered for six months. The total fees collected were $6 302 041. There were also 10 228 eight cylinder vehicles registered for twelve months, with total fees of $4 813 690 collected.

3. Between 1 July 1996 and 31 December 1996, 79 814 six cylinder vehicles were registered for three months. The total fees collected, which includes the administration fee component introduced from 1 July 1996, were $9 286 564. There were also 98 284 six cylinder vehicles registered for six months and 85 459 six cylinder vehicles registered for twelve months, with the respective total fees of $20 246 098 and $41 879 265 collected.

4. Between 1 July 1996 and 31 December 1996, 16 585 eight cylinder vehicles were registered for three months. The total fees collected were $2 234 046. There were also 17 338 eight cylinder vehicles registered for six months and 9 605 eight cylinder vehicles registered for twelve months, with the respective total fees of $4 103 557 and $5 016 211 collected.

SMALL BUSINESS

146. **The Hon. T.G. CAMERON:**

1. How much did the Government small business advertisements in the *Messenger* Newspapers promoting its new small business initiatives cost?

2. How much has the Government spent on advertising its new small business initiatives and what is the breakdown for radio, newspaper, television and any other?

The Hon. R.I. LUCAS:

1. The Economic Development Authority spent $22 990 on a two page advertisement in the *Messenger* newspapers on December 18, 1996, to promote the Government's small business initiatives. The two-page advertisement appeared in all 11 Messenger newspapers which have an estimated audience in excess of 680 000 readers, including 38 000 small business owners.

The advertisement was in the form of editorial written by *Messenger* journalists. The editorial covered the key features of the small business initiatives and highlighted a number of successful South Australian small businesses.

2. There was no additional expenditure on advertising the small business initiatives.

STINK BOMBS

147. **The Hon. T.G. CAMERON:**

1. How many stink bomb incidents have been reported to TransAdelaide in the last 12 months?

2. How many prosecutions has TransAdelaide launched due to stink bomb attacks?

3. What steps has the Minister taken to ensure that passengers on South Australian trains, buses and trams are, as far as is possible, safe from stink bomb attacks?

4. What procedures do TransAdelaide drivers and staff follow for the orderly evacuation of buses, trains or trams if they are stink bombed?

5. Does the Minister believe these to be adequate?

The Hon. DIANA LAIDLAW:

1. The number of stink bomb attacks reported to TransAdelaide in the past 12 months is as follows—

Rail System	3
Lonsdale Depot	4
Morphettville Depot	3
Port Depot	2
Mile End Depot	0
St Agnes Depot (including Womma Road)	0
Tram Line	0
Total	12

2. TransAdelaide does not launch prosecutions for offences committed but reports instances to the Transit Police whose responsibility it is to investigate and take further action.

I am not aware of any persecution due to stink bomb attacks, as no offenders have been apprehended.

3. It is not possible to fully control what every customer brings on to TransAdelaide vehicles. However, TransAdelaide has confirmed that Consumer Affairs consider 'this product not to be severely dangerous or detrimental to human health'. In addition, the Health Commission has advised TransAdelaide that 'the ingredients are not scheduled as a poison and are not likely to cause serious adverse side effects'.

4. TransAdelaide is currently waiting for advice from the Health Commission to determine the extent of evacuation procedures required, if any, when one of these attacks occur.

5. See above.

WATER SUPPLY, O'HALLORAN HILL

148. **The Hon. T.G. CAMERON:**

1. Has there been any pumping of water from the lake situated on the Glenthorne Farm land at O'Halloran Hill for construction purposes by MacMahon, the construction firm for the Southern Expressway?

2. (a) If so, has an environmental impact study been undertaken to ensure the lake's flora and fauna are not adversely affected by any such pumping?

(b) If not, why not?

The Hon. DIANA LAIDLAW:

1. Macmahon Contractors Pty Ltd has been using water from the Glenthorne Upper Lake for dust suppression purposes since November 1996. This is a private contractual arrangement between Macmahon and the lessee of the property who, I have been informed, has the authority to make such agreements.

2. (a) No formal environmental impact study has been undertaken by Macmahon Contractors. However, I am advised that, to ensure the integrity of the native flora and fauna, the agreement between Macmahon and the lessee of the property provides limitations on the amount of water which can be extracted. The environmental management of this activity is covered by Macmahon's own environmental management procedures.

A factor to keep in mind is that this body of water is artificial and is subject to natural level fluctuations.

(b) Macmahon's contractual obligations require them to comply with all statutory requirements in the construction of the road.

TRANSPORT, STUDENT CONCESSIONS

149. **The Hon. T.G. CAMERON:**

1. (a) Will the Minister modify existing Passenger Transport Board policy to allow students who are not carrying their student ID the opportunity to produce the required identification within 24 hours before being required to pay a transit infringement notice?

(b) If not, why not?

2. How many passengers were issued with transit infringement notices for using concession tickets whilst not being in the possession of a valid concession card for the years—
(a) 1993-94;
(b) 1994-95;
(c) 1995-96?
3. How much revenue was collected as a result of transit infringement notices being issued to passengers using concession tickets whilst not being in the possession of a valid concession card for the years—
(a) 1993-94;
(b) 1994-95;
(c) 1995-96?

The Hon. DIANA LAIDLAW:

1. At my request, the Passenger Transport Board is reviewing existing policy regarding some concession card offences including the introduction of a 'Period of Grace' for students to produce the required identification.
2. The number of Transit Infringement Notices issued for failure to carry a valid concession card whilst travelling is as follows—
The information is only available in calendar years.

Year	Number of Infringement Notices
1993*	155
1994*	138
1995	603
1996	1932

*denotes period when free issue transport tickets were available to School Card entitled students. Free issue tickets to School Card entitled students ceased on 30 September 1994.

3. Revenue collection as a result of expiation action taken in regard to concession card offences is as follows—

Year	Revenue Collected
1993	$11 350
1994	$12 150
1995	$52 650
1996	$159 900

JET SKI LICENCES

165. **The Hon. T.G. CAMERON:**

1. How many jet ski licences are there currently in South Australia?
2. How many complaints has the Marine Safety Section of the Department of Transport received for the periods—
(a) 1993-94;
(b) 1994-95; and
(c) 1995-96?
3. How many jet ski owners or users have been issued with infringement notices for the periods—
(a) 1993-94;
(b) 1994-95; and
(c) 1995-96?
4. How many jet ski owners or users have been prosecuted for operating a craft without due care for the periods—
(a) 1993-94;
(b) 1994-95; and
(c) 1995-96?
5. How many jet ski owners or users have been prosecuted for operating a craft in a dangerous manner for the periods—
(a) 1993-94;
(b) 1994-95; and
(c) 1995-96?
6. How many accidents involving jet skis have occurred for the periods—
(a) 1993-94;
(b) 1994-95; and
(c) 1995-96?
7. How many deaths and/or injuries were the result of jet skis for the periods—
(a) 1993-94;
(b) 1994-95; and
(c) 1995-96?
8. How many councils have introduced by-laws dealing with jet skis?
9. Are these by-laws consistent with each other?
10. (a) Do by-laws change as jet skiers move from council to council?
(b) If so, does the Minister consider this to be satisfactory considering this may lead to confusion for both the public and operators of jet skis?
11. Will the Government consider introducing legislation to ensure all seaside council jet ski by-laws are consistent?
12. Does the Government intend to introduce practical tests for jet ski drivers?
13. Are customers who hire jet skis on a once-off basis required to have a licence to drive the jet ski?
14. If so, will the Minister investigate the current practice of customers being able to hire jet skis without a licence?
15. In the interest of public safety, will the Government introduce legislation to require boat owners (including jet ski owners) to take out third party insurance?
16. Is the Government considering banning jet skis from all suburban beaches?

The Hon. DIANA LAIDLAW:

1. Any holder of a Motor Boat Operator's licence is permitted to operate a jet ski. It is therefore not possible to identify the number of jet ski operators.
2. Records of complaints received during the years requested are not categorised according to class of motor vessel. This information is not readily available or easily extracted.
3. As for 2 above.
4. The number of jet ski operators prosecuted for operating a craft without due care (which is regarded as one of the more serious offences) were—
(a) 1993-94 1
(b) 1994-95 1
(c) 1995-96 1
5. The number of jet ski operators prosecuted for operating a craft in a manner dangerous (also a serious offence) were—
(a) 1993-94 Nil
(b) 1994-95 Nil
(c) 1995-96 1
6. The number of reported accidents involving jet skis—
(a) 1993-94 2
(b) 1994-95 Nil
(c) 1995-96 1
7. The number of deaths and/or injuries as a result of reported jet ski accidents—
(a) 1993-94 Nil
(b) 1994-95 Nil
(c) 1995-96 1 injury
8. To the Department of Transport's (DoT) knowledge only the Charles Sturt and Holdfast Bay Councils have by-laws relating specifically to the launching of jet skis from the foreshore. Willunga Council is in the process of introducing similar by-laws. The restriction on the use of motorised craft such as jet skis is undertaken by amendment to the regulations under the Harbors & Navigation Act 1993. These restrictions do not target jet ski operators but restrict the speed of all vessels fitted with an engine.
9. Restrictions, in the form of council by-laws, may vary from area to area. However, in 1995 the recommendation of the Personalised Water Craft Working Party, established by DoT to apply a consistent regulation of jet ski activity, was accepted by the Metropolitan Seaside Councils' Committee of the Local Government Association. The recommendations were to establish a 4 knot speed restriction for motorised craft within 200 metres of the shore. Local councils were to nominate the areas such restrictions were required and the Harbors & Navigation Regulations amended accordingly.
10. (a) Not all councils have sought to adopt the speed restrictions and in some circumstances the restrictions have been extended to make delineation of an area easier or to protect the safety of other aquatic activities.
(b) Whilst consistency of by-laws and restrictions might be ideal, Councils have always had the prerogative to take account of local needs.
11. The issue of uniform legislation will be canvassed by DoT's Marine Safety Section and seaside and river Councils through the Local Government Association, together with the Jet Boat Sporting Association and other interested parties as part of ongoing consultation over the use of jet skis, restricted areas, and the like.
12. There is no intention of introducing practical testing of jet ski operators in the foreseeable future.
13. Provided the jet ski is operated only within a designated restricted area licensed to the hire company proprietor, persons hiring jet skis on a one-off basis are not required to have a Motor Boat

Operator's licence. In the absence of such a licensed restricted area, hirers of jet skis must possess a Motor Boat Operator's licence.

14. Refer to question 13 above.

15. This matter has been discussed in the past without being resolved, but remains an option subject to consultation with user representative organisations.

16. No. It has been a long standing practice that regulation of aquatic activities along suburban beaches is initiated at the request of the respective local Council. At this stage the control and promotion of responsible use of this form of activity is preferred to total prohibition.

SHIPS, DUMPING AT SEA

167. **The Hon. T.G. CAMERON:**

1. Is the Government aware that cleaning of ships and the dumping of waste material whilst at sea is contaminating the delicate environment of South Australian Gulfs?

2. (a) As the only way to safely dispose of ships' waste is for cleaning to be done in port, will the Minister give consideration to the banning of such practice?

(b) If not, why not?

The Hon. DIANA LAIDLAW:

1. Neither the Department of Transport nor the Environment Protection Authority are aware of the dumping of waste in Gulf waters. If the honourable member is aware of such practice, any information he can provide would be appreciated.

2. (a) Under the provisions of the Regulations in the Harbors and Navigation Act 1993, it is an offence for a vessel to discharge directly or indirectly into State waters any offensive material that may cause pollution, a nuisance or offence. These requirements emanate from the International Convention for Prevention of Pollution from Ships, MARPOL, of which Australia is a signatory. While State legislation relates to Gulf waters and other waters three nautical miles from shore, Commonwealth legislation extends these restrictions to 12 nautical miles off our coastline.

(b) Refer to 2. (a) above.

TRANSPORT, POLICE PASSES

168. **The Hon. SANDRA KANCK:**

1. Are members of the South Australian Police Service eligible for a pass entitling them to free travel on public transport?

2. If so, how many passes are issued?

3. In what form is the pass issued?

4. For how long is each pass valid?

5. Is the pass for unlimited travel during the period of validity?

6. Is the pass valid for privately managed public transport?

7. Is remuneration paid by the Police Service to the Department of Transport for the free travel enjoyed for members of the Police Service?

8. If so, how is the level of remuneration calculated?

9. What was the amount of remuneration paid during—

(a) 1994;

(b) 1995; and

(c) 1996?

10. If no remuneration is paid, has the Department of Transport calculated the cost of providing free transport to police?

11. If so, what is the cost?

12. Does the Department of Transport know how many times members of the Police Service use their travel passes per annum?

13. What other employment groups receive free travel passes?

14. Are free travel passes issued to any other group or persons and, if so, which groups or persons?

The Hon. DIANA LAIDLAW:

1. Yes. Prior to 1994 all members of the SA Police Force were granted free travel on all scheduled bus, train and tram services operated by the State Transport Authority. Police officers in uniform were not required to produce identification. Free travel for plain clothed members was gained on production of the police officer's Certificate of Authority.

Since early 1994 eligible police officers receive Special Annual Tickets (SATs) entitling them to free travel on all the bus, tram and train services funded by the Passenger Transport Board (PTB). This initiative aims to encourage police officers to use public transport so as to complement the Transit Watch Operation in curtailing vandalism on public transport vehicles and property. The presence of police officers also assists in ensuring safety for both operating staff and the travelling public.

2. For 1997, 3 700 SATs were issued to the Police Department for distribution to the eligible police officers.

3. The passes are called Special Annual Tickets (SATs).

4. The annual tickets are valid for the year of issue.

5. The SATs entitle the holders to unlimited travel for the year.

6. The SATs are valid on all the bus, tram and train services funded by the PTB in metropolitan Adelaide.

7. The Police Department does not pay for these tickets.

8. Not applicable—see 7. above.

9. Not applicable—see 7. above.

10. Cost in terms of revenue foregone is dependent upon actual level of usage. At present the PTB's ticketing system does not separately identify police officer patronage on the SATs.

11. Not applicable—see 10. above.

12. As advised above, the ticketing system does not record separately how many times police officers use their travel passes per annum.

13. There are no other employment groups receiving free travel passes from the PTB.

14. The following groups/persons receive passes for free travel on public transport services funded by the PTB in metropolitan Adelaide—

Incapacitated Ex-Service Personnel receive Special Annual Passes.

Blind Persons receive a non-validating photographic pass.

Other individuals/groups—

The Governor and Spouse.

Members of State and Federal Parliaments.

Retired members of State and Federal Parliaments, who qualify.

Industrial chaplains for industrial purposes.

Aged and Invalid Pensioners Association for service to members.

Guide Dogs Association of SA & NT for training of people with disabilities.

Australian Services Union for industrial purposes.

Public Transport Union for industrial purposes.

Townsend House for training of people with disabilities.

Youth Support Team (Police) for community liaison.

As part of company policy metropolitan service contractors may deem they wish to provide free travel entitlements/passes to their workforce.

RAIL, STAFFING

170. **The Hon. T.G. CAMERON:**

1. What were the operational and industrial award requirements that brought about the change in operating hours at TransAdelaide's staffed suburban railway stations, as stated in the January 1997 edition of 'TransAdelaide Rail News' (page 1)?

2. Have the number of operating hours been cut at any of the stations?

3. If so—

(a) by how much; and

(b) at what stations?

4. Were passengers consulted before the changes were introduced?

The Hon. DIANA LAIDLAW:

1. As part of the recent Occupational Health, Safety and Welfare audit conducted throughout TransAdelaide, it was identified that instances occurred at staffed suburban railway stations where staff were taking their lunch break whilst the office was open to the public. Therefore, during their break ticket sale and information functions were being conducted.

This practice does not comply with the requirements of Clause 20—'Meal Breaks' of the State Transport Authority of South Australia Salaried Officer's Award or the accepted rail industry practice (South Australia) of 'crib' breaks.

2. and 3. The number of operating hours at the staffed suburban stations has not been reduced with regard to the overall span or coverage. However, staff now close the office for twenty minutes during their programmed meal breaks. At such times a notice advises the closure times and identifies alternative ticket vendors.

The programmed closures only affect ticket sales to the 11.47 a.m. Oaklands to Adelaide and the 10.15 a.m. Gawler to Gawler Central services.

The notice in TransAdelaide's Rail News was intended to be advice to the public that pre-bought tickets (that is Day Trip or Multi-trip tickets) would be required if they wished to travel on

services during the programmed meal break closures. The notice provided alternative ticket venues in the general proximity of each of the stations and also stated that cash fare tickets (single use tickets with a two-hour validity period) could be purchased from ticket vending machines on board trains.

4. No consultation was undertaken with the public as the changes were based on industrial requirements, and were of a nature which did not affect the provision of rail services. With the cooperation of staff, every effort was made to provide the breaks during periods where the least number of customers were affected regarding ticket sales. As previously stated, only two stations have been affected in terms of ticket sales for one train service at each location.

MOTOR VEHICLES, REGISTRATION AND INSURANCE

171. **The Hon. T.G. CAMERON:** Will the Minister investigate the acceptance of payment of Motor Vehicle Registrations and Third Party Insurance by the Registration and Licensing Section of the Department of Transport by telephone and credit card?

The Hon. DIANA LAIDLAW: The Department of Transport is investigating electronic commerce opportunities that will allow for external service providers to process registration and licensing transactions and for clients to utilise remote payment facilities.

The successful introduction of electronic commerce will be enhanced by the introduction of alternative payment options including credit and debit cards. The introduction of Interactive Voice Response Units is to be considered as part of the examination of electronic commerce.

EQUAL OPPORTUNITY COMMISSION

173. **The Hon. P. HOLLOWAY:**

1. What was the total number of cases reported to the Equal Opportunity Commission over the years—

(a) 1993-94

(b) 1994-95; and

(c) 1995-96?

2. What were the number of cases in the categories of sexual harassment, victimisation and racial discrimination for—

(a) 1993-94;

(b) 1994-95; and

(c) 1995-96?

The Hon. K.T. GRIFFIN:

1. 1993-94 884 formal complaints
   1994-95 1008 formal complaints
   1995-96 808 formal complaints

2.

	Sexual harassment	Victimisation	Racial discrimination
1993-94	284	28	186
1994-95	322	38	190
1995-96	277	32	125

FREIGHT FLIGHTS

177. **The Hon. T.G. CAMERON:**

1. How many freight flights has Malaysia Airlines made from Adelaide Airport since 30 March 1995?

2. How many freight flights does Malaysia Airlines currently make each week from Adelaide Airport?

3. How much freight, on average, does each flight carry?

4. Are the freight flights currently carrying their full capacity?

The Hon. DIANA LAIDLAW:

1. Fifty eight since the program commenced on 9 January 1996.

2. One. Additional freight capacity is available on each of Malaysia Airlines three passenger flights per week.

3. Airlines normally regard commercial information of this sort as highly confidential.

4. Malaysia Airlines has advised it is well satisfied with the performance of its flights, as all South Australians should be too. Throughout 1996 the States' exports to Malaysia almost doubled to 925 tonnes—representing an increase in export value of more than $1.3 million over 1995. The program provided fast and assured access to a growing market for quality produce in particular, as evidenced by the fact that South Australian exports of fresh fruit to Malaysia grew by nearly 200 per cent over the period, and fresh vegetables by 300 per cent.

BUS ROUTES

185. **The Hon. T.G. CAMERON:**

1. What consultation process does TransAdelaide currently follow when it introduces a new bus route or makes changes to existing routes which may affect local residents?

2. What appeals process do residents currently enjoy if they object to proposed bus routes?

3. Will the Minister ask TransAdelaide to investigate its current consultation process to ensure local residents affected by new or changed bus routes are advised of proposals in advance and are given the chance to have their views taken into consideration?

The Hon. DIANA LAIDLAW:

1. Changes to existing routes or the creation of new service routes are introduced as a result of continual market research, suggestions by the general public, respective bus depot public forum panels, by individual bus operators or advice from the workforce representative committees. Customer surveys are conducted on bus routes where changes are proposed. TransAdelaide then consult with any local councils as well as local Members of Parliament, whose constituents would be affected by the proposed changes. The proposal is then submitted to the Passenger Transport Board for approval, after which route descriptions and maps showing the changes are supplied to councils, with the view of consultation on bus stop positioning.

Depending on the size of changes to existing routes, TransAdelaide letterbox the local community or advertise through the print media when larger changes or new services are proposed.

Local schools and community groups are consulted and TransAdelaide attends (by invitation) any meetings called to explain and seek comment from interested parties.

A number of councils have groups of interested people who advise on transport needs in their respective communities and advice is sought by TransAdelaide from any of these groups.

2. As outlined above, TransAdelaide makes every effort to consult with the broadest cross section of the community to ensure minimal disruption to residents and is always receptive to constructive comment from councils, groups or individuals. On many occasions proposals have been adjusted as a result of comments received from interest groups.

3. The current consultation process is thorough both in terms of providing local residents with opportunities to have their view taken into account prior to route changes, and in advising local residents in advance of any proposed change. TransAdelaide is willing however to consider any proposal to improve their consultative processes.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the sixteenth report of the committee.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. CAROLINE SCHAEFER: I bring up the annual report of the Environment, Resources and Development Committee 1995-96.

QUESTION TIME

GOODWOOD ORPHANAGE

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 the House of Tabor.

Leave granted.

The Hon. CAROLYN PICKLES: At last night's community meeting at Goodwood attended by the member for Unley, the Leader of the Opposition, Mike Rann, and the Democrats' Leader, Mike Elliott, the Minister's former parliamentary secretary, Mark Brindal, criticised the Government's handling of the House of Tabor proposal and said he had put forward an alternative proposal that would involve

the sale to the private sector of the heritage listed teaching/education Orphanage building, which was restored by the previous Government. The member for Unley's proposal was greeted with enormous anger by the meeting and my question to the Minister is: do you support and will you consider seriously the proposal by the member for Unley, Mr Mark Brindal, to sell off The Orphanage building in order to raise funds to save surrounding open space from development by the House of Tabor?

The Hon. R.I. LUCAS: I always take seriously any suggestion from the member for Unley—a very effective parliamentary secretary he was and a very effective member for Unley he still is.

The Hon. L.H. Davis: In his only two election campaigns he has beaten two Labor Ministers.

The Hon. R.I. LUCAS: Exactly. He is a very effective campaigner.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: As I indicated, I think, when asked by the local *Messenger* last week, I have enormous respect for any member who would put the wishes of his constituents before his own personal parliamentary ambition, by being prepared to give up the prestigious position of parliamentary secretary.

The Hon. L.H. Davis: A courageous decision.

The Hon. R.I. LUCAS: A courageous decision. As I said, I have enormous respect for any man who would put the interests—

Members interjecting:

The PRESIDENT: Order! We have had a session before lunch. I would ask you all to have your glass of milk and sit quietly and listen to the questions and answers.

The Hon. R.I. LUCAS: Before I was rudely interrupted—

Members interjecting:

The Hon. R.I. LUCAS: That is the problem: the Democrats only judge the worth of a job by the salary paid for it. Many women in the community would be offended by that notion from the Leader of the Australian Democrats that the only way to measure the worth of any position is by the salary paid to it. I do not think even the Hon. Carolyn Pickles would agree with that proposition from the Hon. Michael Elliott and, if she did, I would be disappointed in her. We in the Liberal Party, as opposed to the Democrats, are not driven by the dollar as the Hon. Mike Elliott clearly is, that one judges the worth of a position by the salary paid for it. As I said, the member for Unley, Mark Brindal, is a fearless—

Members interjecting:

The Hon. R.I. LUCAS: We did suggest a few last night, in the early hours of the morning, in the members' bar over a cup of coffee, I might say, as we debriefed from his experience last evening. As I was trying to say, the member for Unley is a fearless representative for his constituents—

The Hon. L.H. Davis: He blew Mayes away.

The Hon. R.I. LUCAS: Exactly—in putting his constituents before his own personal ambitions and he was prepared to make the sacrifice of standing down from the position of parliamentary secretary, a position of much prestige within the Government and the Liberal Party. As I indicated to the current Leader of the Opposition, anything the member for Unley puts to the Government and to me as Minister we will need to consider and consider seriously because the member for Unley knows his constituency well and knows what the majority of his constituents would be prepared to support. On the other hand, as Minister for Education and Children's Services, I have to balance the interests of teachers, students and the Department for Education and Children's Services. Sometimes those competing interests can be mutually satisfied in a win:win situation and, in those circumstances, particular projects might be possible.

However, if the interests of teachers and students cannot be catered for and satisfied in a win:win proposition, with any proposition, let alone this one, then as Minister for Education and Children's Services I will not be interested in entertaining such a proposition seriously. We will have a look at whatever detail the member might have raised at the meeting last night. In my informal debriefing with the member in the early hours of the morning we discussed a number of issues, but we did not get into the detail of the particular options and we will obviously need to have a more formal discussion over the coming days and weeks in terms of what the proposition might be and we will then make a considered judgment in the best interests of teachers and students, more importantly, throughout South Australia.

The Hon. P. HOLLOWAY: I desire to ask a supplementary question. In view of the enormous respect that the Minister for Education and Children's Services just said he has for Mr Brindal, does he support the proposal raised by Mr Brindal at last night's meeting to raise taxes in order to save the open space at Goodwood Orphanage from sale and development?

Members interjecting:

The PRESIDENT: Order! The Minister is very accomplished at answering his own questions and I ask members to refrain from interjecting.

The Hon. R.I. LUCAS: The Hon. Mr Holloway was unfortunate in that he did not have the benefit, before lunch, of listening to the contribution from the interested-in-the-leadership Hon. Mr Cameron in the Supply Bill debate.

The Hon. Diana Laidlaw: Aspiring!

The Hon. R.I. LUCAS: Aspiring, perspiring? The Hon. Mr Cameron raised the prospect of the Government's having concentrated too much on expenditure reduction in meeting its financial targets. Clearly, the corollary to that is that the Hon. Mr Cameron was pushing the line of: 'Let's explore the other option of increased taxes and revenue to meet these particular financial problems.'

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: A free Commonwealth grant—okay. So, the Hon. Mr Holloway is a little at cross-purposes with his own colleague regarding this issue of taxes and charges. The Labor Party needs to sort this out. The Hon. Mr Holloway does not want an increase in taxes, but the Hon. Mr Cameron says that, clearly, this is one of the issues the Opposition will need to look at. With as much respect as I can muster for the Hon. Mr Holloway, I do not always automatically accept what he says to be 100 per cent accurate. In my informal debrief with the member for Unley last night, we discussed a range of things that he mentioned including some of the issues that the Leader of the Opposition discussed, but we did not explore the claim by the Hon. Mr Holloway about an increase in taxes. So, I will need to discuss the issue with the member for Unley (the local member) to see what he did say and then give a considered view in the light of that.

My position in relation to taxes and charges generally is the same as that of the Government, which has indicated clearly under both former Premier Brown and Premier Olsen that it is not prepared to go down the path of placing further

unnecessary imposts on the taxpayers of South Australia as a way of getting out of its financial problems. We need to reduce the total level of expenditure and to balance the budget in that way.

An honourable member interjecting:

The Hon. R.I. LUCAS: That's a health issue.

Members interjecting:

The PRESIDENT: Order!

PORT AUGUSTA, LAW AND ORDER

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about the law and order situation in Port Augusta.

Leave granted.

The Hon. R.R. ROBERTS: A radio report this morning attributed to the Mayor of Port Augusta outlined a situation that has arisen in Port Augusta. The assertion was made that unions at the power station in Port Augusta were considering strike action or action if Premier Olsen did not take steps to address the law and order problems in Port Augusta. I have had at least two telephone calls this morning and another telephone call that I was not able to answer from Port Augusta regarding this matter.

The Hon. L.H. Davis interjecting:

The Hon. R.R. ROBERTS: I think you ought to go a bit quiet on this one. Both those constituents were concerned about the situation at Port Augusta. They informed me that their concern reflects a body of opinion in Port Augusta about the way in which Port Augusta is continually being talked down or receiving bad publicity.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Members opposite have made passionate contributions about their dedication to Port Augusta—the Minister for Transport has often espoused her dedication to the people of Port Augusta—so I would have thought that this rabble opposite would be concerned about this serious matter. I have spoken to the Attorney-General, and I am pleased to be able to report to the rest of the Council that he takes this matter seriously.

The constituents in Port Augusta are concerned. They have asked me whether the reported crime rate in Port Augusta is excessively higher than the average in country cities in the Iron Triangle and other parts of South Australia. They believe that it is not, but I have indicated to the Attorney-General that I would like to be advised of that. If the crime rate at Port Augusta is higher, the second arm of my question to the Attorney-General is: if there is a genuine need for action, what action will he as the Attorney-General in cooperation with the Premier and Cabinet take to assist in allaying these genuine fears about the law and order situation in Port Augusta?

The Hon. K.T. GRIFFIN: I do not have available the statistics in relation to Port Augusta, but I undertake to get that information and bring it back as soon as possible.

The Hon. R.R. Roberts: It is getting near council election time.

The Hon. K.T. GRIFFIN: It may be near the council elections, but I suspect that the Opposition thinks it is getting close to a State election.

The Hon. T.G. Cameron: It's closer every day.

The Hon. K.T. GRIFFIN: They hope for it every day. I accept that within Port Augusta there is genuine concern about vandalism and violent criminal activity. There is a difficulty in Port Augusta in that the unemployment rate amongst young people is higher than it may be in other centres. I do not have the exact figures at my fingertips, but it is acknowledged that there is a difficulty in that respect. The way in which the media have been reporting this matter suggests that the Government has done nothing in relation to those issues that have been raised about Port Augusta—and that is far from the truth. I certainly have a responsibility for crime prevention, but other agencies have a responsibility for delivering services, including Family and Community Services, the police, Youth Affairs, State Aboriginal Affairs, and a variety of other Government agencies, within Port Augusta. So, across Government a significant amount of effort is being put into Port Augusta.

However, the Government cannot solve these issues of crime alone. I suppose that it is comforting for some people to say: 'What are you as a Government doing about it and why aren't you as a Government solving it?' Anyone with an ounce of sense and an objective view of the issue would recognise that Governments by themselves cannot solve these problems. However, Governments can operate in partnership with local communities, in particular, and with local government to try to develop strategies to deal with the long-term issues as well as the short-term issues. The short-term issues involve essentially policing matters, but they also bear a relationship to family life, unemployment and so on.

Whether significant numbers of Aboriginal or non-Aboriginal young people are causing difficulties in Port Augusta, the fact of the matter is that from whichever group you come in the community in Port Augusta there is a concern to do something about it. One of the police reports in respect of this problem indicates that a seven member police task force has been operating in Port Augusta since 30 January to address police and community concerns about a seasonal increase in behavioural and property offences. The results achieved by this task force have been well reported in the local media.

Then there is a Social Policy Coordination Committee, which was formed in November 1995 and which is chaired by Superintendent Howie, who is the officer-in-charge of the Far North Division. That committee is made up of senior representatives of agencies, including all three tiers of Government in Port Augusta. My understanding is that this is the first time that agencies working within Port Augusta and representatives of the local community have got this far in trying to address some of these social causes of the criminal behaviour which occurs in Port Augusta.

Earlier last year, I believe it was, I spoke with Mayor Baluch about the prospect of the Crime Prevention Committee—which is funded from my Crime Prevention Unit—working much more under the umbrella of the local council, because right across the State local crime prevention committees are now working much more closely with local government. Both from the committee's perspective in Port Augusta and from the perspective of the Mayor, I understood that there was an agreement that we should bring both the local council and the Crime Prevention Committee much closer together. My understanding is that that occurred and that it is working satisfactorily.

In Port Augusta, in relation to crime prevention, a number of initiatives are being taken by the Crime Prevention Committee in relation to graffiti, property vandalism, and so on—offences which do cause significant concern among law-abiding citizens. There is a small core of repeat young offenders, but I am informed, from the police perspective,

that there is strong community support for the task force operation, including support amongst Aboriginal groups and families.

In many instances, repeat offenders have agreed to accept bail conditions preventing them from being away from their homes at night unless accompanied by a parent or guardian. I digress for a moment to reflect upon the fact that in one of the February editions of *The Economist* there was an article about a housing estate in the United Kingdom which had problems with young people in what we describe loosely as 'gangs' causing problems on the housing estate. So, the police and other agencies targeted the ringleaders. They were brought to court, and one of the conditions imposed was that there be a curfew in relation to those offenders. So, a curfew was ordered in relation to particular offending—not a blanket curfew, but a curfew in relation to offenders. That seems to have cleared up all the difficulties on that housing estate in the UK.

So, in relation to areas such as Port Augusta, the Government and I have been saying, 'We as a Government are prepared to work with you, the community, coordinate more effectively, if that is necessary, and take reasonable steps to assist with particular issues of law and order,' specifically targeting the resources to solving problems. That is the appropriate way to go, in both—

The Hon. T.G. Roberts: They need employment projects.

The Hon. K.T. GRIFFIN: They may well need employment projects. I have been informed, for example, that some funding is being removed from one of the Commonwealth agencies in relation to Street Legal. Immediately on becoming aware of that, I indicated that I would do my utmost to ascertain from the Commonwealth whether that decision could be reversed, because Street Legal is supported partly by my Crime Prevention Unit and is providing valuable support, on all the evaluations that have been done, to local young people who are at risk. I wrote to the City Manager only yesterday indicating that we as a Government are prepared to do whatever we can which is reasonable to try to assist in targeting particular difficulties in Port Augusta.

The Chief Executive Officer of the Department of State Aboriginal Affairs went to Port Augusta yesterday to talk to Aboriginal people about the particular problem that might confront Aboriginal people, as much as it confronts non-Aboriginal people. So, that is a step that we are taking in the direction of trying to find satisfactory solutions to a long-term problem.

I have never said that there is no crime; I have never said publicly or privately that we should not give attention to policing and enforcement. We should. However, in the longer term, the only way we are going to solve a lot of these problems is to attack the causes and prevent crime from occurring in the first place—and the whole community will be better off for it—rather than trying to ramp up penalties, filling the gaols and doing a whole range of things which in the short term might provide some superficial comfort but which in other respects will not provide long-term solutions. So, I undertake to obtain some further information for the honourable member in relation to the issues which he has raised and bring back a reply at the earliest opportunity.

In relation to the threat to the power house, I would be disappointed if those who work at the power station—or in any other agency, either of Government or in the private sector in Port Augusta—took the view that they should down tools because a Government, they say, is not doing enough. Ultimately, as I say, it is an issue for the local community as much as it is for government. In those circumstances, I do not believe there was such a threat because the fact of the matter is that I believe that the people who work at the power station are responsible citizens and, whilst they will be concerned, as any other citizens may be, about issues of graffiti and vandalism and violence, they will play their part in solving this problem. It is not just a problem to be flick passed to the Government.

SHACKS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation prior to asking the Minister for Education and Children's Services, representing the Treasurer, a question about shack freeholding applications lodged with the Asset Management Task Force.

Leave granted.

The Hon. T.G. ROBERTS: I have recently received limited, but informed, correspondence from the Point Riley Tickera Coast Shackowners Association Incorporated. I have also received a number of phone calls, mainly from the same people who have been corresponding with me, expressing several concerns about the shack freeholding process for 30 shacks situated between Point Riley and Tickera in the northern Yorke Peninsula. One of their concerns is the non-response of the Asset Management Task Force to their freeholding applications lodged five months ago by surveyor Richard Abbott on their behalf. This association is currently negotiating with a number of Government departments to progress the freeholding of these shacks. Little can be achieved, however, until they receive the contracts from the Asset Management Task Force. My questions to the Minister are:

1. Is the Minister aware of the freeholding application from the Point Riley Tickera Coast Shackowners Association Incorporated?

2. Does the Minister agree that five months is far too long for this association to wait for a response from the Asset Management Task Force to their freeholding application? I understand that it is not only the Point Riley Tickera people, because there are a number of applications from other shack owners around the State who are waiting.

3. Will the Minister give an assurance that the Asset Management Task Force will respond to this association's application if the near future?

4. How many officers are currently working on shack freeholding applications in the Asset Management Task Force?

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

TELECOMMUNICATIONS CABLES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Education, representing both the Premier and the Minister for Infrastructure, a question about telecommunications cables.

Leave granted.

The Hon. M.J. ELLIOTT: The roll-out of overhead telecommunications cables is generating a great deal of community concern. I had recent contact with people about aesthetic impacts and wasted resources involved in this exercise, and a novel solution has been suggested to the problem with the cables. My informants tell me that in Japan they have developed a technology whereby the optic fibre

cables can be laid inside sewers. I also understand that Sydney is about to carry out a trial of placing the fibre optic cables into sewers. Large parts of Sydney, as I understand, are not sewered in the way that Adelaide is, and if it is a workable technology—and, as I understand, it is already being applied in Japan—Adelaide could be well suited to try it out. Of course, it does allow people to say, I suppose, 'This film comes from the sewer,' and be absolutely right!

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: If you were on the line, yes. The questions I ask the Minister are:

1. Will the Minister investigate whether or not this technology is being used elsewhere and, if so, would he be prepared to trial the technology within South Australia—noting that we have already been quite creative in terms of relining sewers, and those sorts of things, in the past? In fact, it might even be possible to do the two processes together.

2. Are SA Water and United Water doing any work in relation to what is known as sewer mining, which is largely about recovering the water from sewers, and also water demand management? That would have the capacity to release air space, if you like, within sewers, so we could find that the two would be quite complementary.

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

SCHOOL TERMS

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question relating to school term dates.

Leave granted.

The Hon. J.C. IRWIN: Over the past 48 hours, I have heard some radio stations referring to the dribbling out of a part of the Labor Party's education policy for the next election, especially in relation to school term dates for the year 2000. I note that the Minister for Education is in good form today, so I ask him to comment on the release of this part of the Labor Party's education policy.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I am sure that the question will bring a smile to the faces of the Hon. Terry Cameron, the Hon. Ron Roberts and the Hon. Paul Holloway. It was a beautiful Sunday afternoon, and I was rolling my arm over with a few Shane Warne leggies in a father and son cricket pairs competition when the inevitable pager buzzer went off. In between leggies, I had a look at the message which stated, 'Ring the *Advertiser;* Labor releases part of education policy document' and gave the particular journalist's telephone number. At the drinks break, I telephoned the *Advertiser*—

An honourable member interjecting:

The Hon. R.I. LUCAS: It was none for plenty! With bated breath I wondered about this bit of the education policy document which had been launched by the Labor Party in its inevitable search for an election date. I eventually got a copy of the news release, which was formally released on Monday and which stated:

> The State Opposition has announced that a Rann Labor Government will rearrange school term dates so that students and teachers have the opportunity to attend the 2000 Sydney Olympics. Shadow Education Minister, Carolyn Pickles, says Education Minister, Rob Lucas, has already issued school term dates to the year 2005 and has made no special provision for the Olympics. 'I cannot understand why the Olsen Government is expecting our school children to be working throughout the period of the Olympics which will be held from 15 September to 1 October. . . This is the first time since 1957 that most school children in Australia will have either the opportunity of attending the Games or watching the Games live on television during the day.'

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: I thought, '1957. Where did they have the Olympics in 1957?' The Olympics were held in 1956. I think it is the only time that Carolyn has hit the *Financial Review*. The headline reads, 'Mistaken date'. Who remembers the 1957 Olympics in Melbourne? Obviously not Carolyn Pickles!

An honourable member interjecting:

The Hon. R.I. LUCAS: I think the Hon. Terry Cameron might have set her up.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: He probably said, 'Here is a good policy, Carolyn, and by the way the Olympics were in 1957.'

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: And Ronny Roberts said, 'This will make you look a lot better than the Deputy Leader.'

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: It gets better. The news release continues, with Carolyn Pickles saying:

> I have spoken to Mike Rann [so he was part of this policy development process, too] and he believes we should reschedule term dates to those now adopted by the Catholic schools. . . I would have thought that that kind of forward thinking and planning was not too difficult for the Olsen Government to organise, but clearly it has not been considered. That is a shame for our school children and their families. I am very pleased to announce this part of Labor's education policy, which I would hope, now that it has been suggested, will be looked at very carefully by the Olsen Government.

At this stage I had to go out to face a couple of quickies and a leg spinner—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Carolyn Pickles and Mike Rann are going the year after they are actually on: everyone else will see them in the year 2000, but Terry Cameron will tell them it is the year 2001. I did not know how to respond to this. I had to go out to bat, my 14-year-old son was at the other end and I was desperate not to let him down in the father and son cricket game. When the game was over I thought, 'Let us go back and check this particular issue.' Three years ago, on 4 April 1994, four months after being elected to government, what did the Minister for Education announce?

An honourable member: You tell us.

The Hon. R.I. LUCAS: 'School holiday changes announced for the year 2000 Olympics'. I do not want to rub it in too much for the Leader, because I do not want to fortify the position of the Opposition!

Members interjecting:

The Hon. R.I. LUCAS: I will be very gentle; I will not read all the press statement, but three years ago we did announce the policy that the Labor Party announced on Sunday.

An honourable member interjecting:

The Hon. R.I. LUCAS: They are probably reading our old releases: they are not reading Mike Rann's releases. They are saying that they have run out of his stuff and there is nothing worthwhile in them, so they had better start reading old Government releases.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Terry Cameron has probably said, 'The Ministers have probably forgotten what they said three years ago.'

The Hon. L.H. Davis: He probably said,'We used to do it in the Labor Party.'

The Hon. R.I. LUCAS: Yes—'Believe me, Carolyn; I worked with Labor Ministers, and they cannot remember longer than about six months, so a Liberal can probably remember about three years. So, if you go back to 1994 and start re-releasing their policies, I reckon you are on a good thing, Carolyn.'

An honourable member: Is it word for word?

The Hon. R.I. LUCAS: Plagiarism—

The Hon. L.H. Davis: Is it Helen Demidenko or—

The Hon. R.I. LUCAS: We did call her Helen Demidenko when she pinched poor old Paul Holloway's Supply speech 1½ years ago.

Members interjecting:

The PRESIDENT: Order! I think the Minister is starting to debate the issue.

The Hon. R.I. LUCAS: No, Mr President.

Members interjecting:

The PRESIDENT: I think he should wind it up.

The Hon. R.I. LUCAS: Terry Cameron says, 'Let him go.' That is coming from one of her own colleagues.

Members interjecting:

The PRESIDENT: Order! I take no advice from either side; I will make up my own mind about that. I just suggest that the Minister perhaps finish his answer.

The Hon. R.I. LUCAS: Thank you, Mr President, I will endeavour to wrap it up. At least the Hon. Paul Holloway only made the mistake once. He spoke before the Hon. Carolyn Pickles once in a Supply Bill speech, she copied it, and he has never done it again. He always says, 'Carolyn, you go first this time because that way you cannot copy my speech again.' We will have to put a patent, embargo or copyright on our policy statements so that the Labor Party, three years later, cannot recycle them as part of a significant education policy announcement as they did last Sunday.

SPEED CAMERAS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Minister for Police, questions concerning speed camera photographs.

Leave granted.

The Hon. T.G. CAMERON: In the *Advertiser* recently, the former Minister for Youth Affairs, Dr Bob Such, was reported as winning a long running battle against a speeding ticket he collected in rural Victoria last year. Dr Such was quoted as saying,'It showed how important it was for motorists to ask for speed camera photographs before paying the fine.' My questions are:

1. Does the Minister agree with Dr Such's advice? Should South Australians caught by speed cameras ask police for a photograph before paying the fines?

2. In the interest of maintaining public confidence in the accuracy of speed cameras, will the Minister give consideration to ensuring that in future all motorists are supplied with a photograph of their speeding offence when they are sent a speed camera infringement notice?

3. What is the percentage of motorists currently caught by speed cameras requesting a photograph of their offence?

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

VICTIMS OF CRIME

In reply to **Hon. CAROLYN PICKLES** (6 March).

The Hon. K.T. GRIFFIN: As a result of the Crown's inquiries surrounding the murdered man's death, it was determined that the deceased was at work at the time of his death. Subsequently, the murdered man's mother's solicitor was advised to pursue her (the mother's) loss through the WorkCover Corporation as provisions do exist in the Workers Rehabilitation and Compensation Act for funeral expenses to be paid.

I am advised that Zurich Australia, the workers compensation insurer, investigated the matter and were not prepared to pay for her son's funeral expenses. The reasons given were that the deceased was not a 'worker' within the meaning of the Act.

In addition, insurance investigators were unable to locate any evidence of wages or appropriate tax deductions being made on behalf of the deceased and, in fact, noted that the deceased was in receipt of full Department of Social Security benefits at the time. It is also understood that the employer was not even registered as an employer with the WorkCover Corporation. However, despite the failure of formalities such as WorkCover payments, Group Tax payments and a failure to register as an employer, the Crown Solicitor's Office is of the opinion that an employer/employee relationship did still exist and therefore, the deceased's mother's solicitor was advised that pursuant to Section 46(1) of the Workers Rehabilitation and Compensation Act, she may still be entitled to claim funeral expenses from the WorkCover Corporation. Accordingly, the solicitor was requested that they pursue the WorkCover Corporation for the funeral expenses, notwithstanding the insurer's initial rejection.

Given that the Criminal Injuries Compensation Act is an Act allowing payment as a last resort, it is the responsibility of the Crown to be certain that all other reasonable avenues are exhausted prior to seeking compensation from the Criminal Injuries Compensation fund.

However, you could advise the deceased's mother that I would be pleased to consider an application for an interim payment until the matter has been resolved should the plaintiff be able to demonstrate that she is in necessitous circumstances and unable to meet the cost of the funeral expenses.

PSYCHIATRIC CONSULTATIONS

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question on the subject of limiting psychiatric consultations.

Leave granted.

The Hon. BERNICE PFITZNER: Mental health has always been a difficult issue and, except for the obvious florid cases of mental disability, a significant number of people with significant mental disorders look normal. This being so, psychiatrists are being accused of treating the 'worried well', an accusation that is ill-informed and unjust, according to some informed general practitioners.

The latest Federal health edict on limiting the number of psychiatric consultations that patients can claim on Medicare at full rate is reported to be totally inadequate. The limit of 50 consultations per year which can be claimed on Medicare, item 306, will not be adequate to treat a patient with deep seated mental difficulties while still keeping him or her at work. I understand that the Federal Minister for Health has extended these consultations from 50 to 160 sessions which can be claimed on Medicare item 319. However, to claim these extra consultations, extra eligibility criteria were added. These criteria were:

1. The patient had to have a history or sexual or physical abuse in childhood, with a diagnosis of either recurrent depression or substance abuse disorder (drug abuse), or somatic (physical) symptoms.

2. The patient had to have a diagnosis of borderline personality disorder, an accepted psychiatric disorder.

3. The patient had to be suffering from an eating disorder such as anorexia nervosa or bulimia nervosa.

All three major groups had to have an assessment known as GAF (global assessment of function), and their score had to be less than 50 on a scale of 1 to 100. They also had to have a history of failed psychiatric treatment. After the 160 extra psychiatric consultations for which a full rebate can be obtained, a further half rebate can be claimed on Medicare item 316, up to a limit of 220 sessions when these sessions are capped. Although this special consideration is a vast improvement on the initial limit on full rebates to 50 consultations, there remain questions to be asked as to the basis and rationale on how these eligibility criteria were decided. My questions to the Minister for Health are:

1. On what basis were these groups chosen? For example, in the drug abuse group, often long-term psychiatric treatment is not the treatment of choice.

2. What about other personality disorders, such as patients with a high level of internalised anxiety, which some people call 'a mess in the head'? For this disorder, treatment needs to be intensive and long term.

3. Why do we need a history of failed shorter treatment before having long-term treatment? Would this not compromise the ethics of the treating doctor, who may be forced to send a patient for inappropriate short-term treatment to demonstrate what he already knows, that it will not work?

4. How about patients who have experienced childhood sexual abuse, but do not show the symptoms and signs as described in their eligibility criteria?

5. Why are children and adolescents with psychiatric disorders not eligible for inclusion in the extra consultation?

6. If the Minister for Health is not privy to the rationale of his Federal colleague, could he seek answers from him?

The Hon. DIANA LAIDLAW: I will refer the honourable member's questions to the Minister and bring back a reply.

GOODWOOD ORPHANAGE

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about the Goodwood Orphanage.

Leave granted.

The Hon. P. HOLLOWAY: At last night's community meeting over the future of the Goodwood Orphanage, the member for Unley (Mr Brindal) said that the Government had received legal advice about the prospect of financial liability by the Government to the House of Tabor. My questions are: has the Minister sought or received the advice of the Crown Solicitor as to the legal liability and possible punitive damage the Government would incur by rejecting the House of Tabor bid in favour of moves by the Unley council to purchase the land and preserve it for open space and wetlands use? What is that advice, and will the Minister share it with the Parliament as it has clearly already been shared with the member for Unley?

The Hon. K.T. Griffin interjecting:

The Hon. P. HOLLOWAY: He didn't share it with us.

The Hon. R.I. LUCAS: As the Attorney-General by way of interjection has indicated, it has never been the practice of Governments, and in particular Attorneys-General, to reveal the nature of Crown Law advice if they have received it. I have not indicated that we have received Crown Law advice. I have had a private discussion with the member for Unley and indicated that we have had some legal advice. I have not indicated that it is Crown Law advice. If we decide that we have to explore that particular scenario, clearly we will need to take formal Crown Law advice. If we go down that particular path, we would not be sharing that information with the Hon. Mr Holloway in that set of circumstances.

Without even having to consult with legal advice, there have been enough precedents in the last 10 years in South Australia's history to know that you do not necessarily have to have a signed formal contract to in effect be found by a court of law to have an agreement. The Hon. Mr Holloway, with the experience of the Labor Government, would be well aware of one or two examples in relation to that. Certainly as a new administration, we became aware of various—

The Hon. P. Holloway: They didn't tell us!

The Hon. R.I. LUCAS: They did not tell you—okay. We became aware of various commitments made by Labor Ministers in the dying days or months of the former Government which legal advice available to the Government indicated clearly—and in those cases my recollection is they were Crown Law legal opinions—that the new Government was bound by some of the commitments or agreements that the former Ministers had made on behalf of the Government, even though there might not have been a formal concluded contract or legal agreement. If we have to go down the particular path, we may well need to explore further and more formally those particular options, but at this stage they remain just possible options in relation to the future of the orphanage and its land.

ABORIGINES, DEATHS IN CUSTODY

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Aboriginal Affairs, a question about deaths in custody.

Leave granted.

The Hon. R.D. LAWSON: It was reported in a recent publication of the Australian Institute of Criminology that few of the recommendations of the Royal Commission into Black Deaths in Custody had been implemented. It was claimed:

> State Governments and racist police forces must bear some responsibility for the record numbers of Aboriginal deaths in custody.

My questions to the Minister are:

1. Has the South Australian Government given consideration to those recommendations of the royal commission which relate to this State?

2. Which of those recommendations have been implemented?

3. Since the publication of the report of the royal commission in 1991, have any other steps and, if so, which ones, been taken to reduce the incidence of death or injury of persons of whatever racial origin in South Australian custodial institutions?

The Hon. DIANA LAIDLAW: I understand that the newspaper report was wrong in its statements. I am certainly aware that in South Australia progress has been made on implementing the recommendations and I will seek detailed advice from the Minister and bring back a reply.

VICTIMS OF CRIME

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Attorney-General a question about victims of crime.

Leave granted.

The Hon. G. WEATHERILL: The *Advertiser* yesterday carried a story about four people who broke through a fence to steal marijuana from a person's backyard. One of these people was shot dead and the other three went to court, claiming victims of crime compensation. When the judgment was handed down the judge said that he would give them something like 40 per cent less than the Act provides. Because these three people were so shocked that their friend was shot, they received $2 800 each as victims of crime, even though people are saying that these people were trying to commit the crime by jumping into a person's backyard and trying to pinch marijuana crops. Will the Attorney-General look at this matter to check on this judgment and appeal if he sees fit?

The Hon. K.T. GRIFFIN: When I saw the newspaper report I was quite perturbed because it seemed that persons who apparently received some compensation should not have done so because they were acting in the course of a criminal act. I sought some advice from the Crown Solicitor's Office, which informed me that it had argued that the court had the power to deprive a person of damages because of the plaintiffs' conduct which contributed to the commission of the offence. There was no previously decided case with a fact situation sufficiently similar to this to submit that a precedent had been set in relation to the facts of this matter. So, the Crown Solicitor did argue that this was one of those cases where, even if technically the applicants had been entitled to some form of compensation, the court was entitled to deprive them of the damages.

As it turned out, the judge who heard the matter considered that it was appropriate to reduce the damages by 60 per cent in relation to each of the plaintiffs. His Honour rejected the proposition that they should be denied all compensation on the basis that it would be too hard on the plaintiffs. He found that, whilst they must accept much of the responsibility for what took place on the night in question, Mr Tomac's response was over the top. He was the person actually convicted of manslaughter. It is an issue at which I will have a more detailed look. I would be interested to know what the Opposition might propose and whether, if an amendment was proposed to the Act, it would support it. If so, I would certainly be pleased to receive any submission from it.

DEAF-BLINDNESS DISABILITY

The Hon. P. NOCELLA: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Disability Services, a question about deaf blindness.

Leave granted.

The Hon. P. NOCELLA: Deaf blindness is unquestionably one of the most serious disabilities known to humankind. Realistically it is fair to assume that in South Australia between 200 and 300 individuals suffer from the either congenital or adventitious deaf blindness, if we are to accept a ratio of about 15 deaf blind persons per 100 000 inhabitants, common to all OECD countries.

No services in this State provide specifically for people who are deaf blind. This is because no-one in this State has been trained to the internationally accepted standards which establish a minimum of four years' training, as in the case of Sweden and other European countries. For those who are already fully trained in the care of either deaf or blind people, the Burmingham report published in the early 1990s recommends an additional 12 months, that is, six months theoretical and six months practical, in order to become appropriately qualified.

On 21 and 22 April at the Goodwood Orphanage a major seminar on deaf blindness, organised by Leisure Link in Adelaide, has been successful in attracting the international expert, Mr William Green, who is, amongst other things, Director of the Italian Deaf Blind Organisation. Mr Green will illustrate, amongst other things, the international standards required to provide appropriate care for those afflicted by deaf blindness, including the training of interpreter translators. In view of this, will the Minister intervene and remedy this unjust situation in our disability area by providing funding for the training of at least one person in a recognised training centre overseas?

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

GOVERNMENT CARS

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Family and Community Services, a question about Government cars used by Family and Community Services volunteers.

Leave granted.

The Hon. SANDRA KANCK: The Department of Family and Community Services (FACS) has a number of volunteers who generously offer their time to undertake driver and supervisory services for children involved in access visits. These visits provide an opportunity for siblings, who do not live together because of family breakdowns, to spend a little time together—usually about two hours. The volunteers who do this are very dedicated, with some spending all day assisting with an access visit if it involves a visit to the country. FACS states in writing in its volunteer policy that no volunteer will be out of pocket while undertaking volunteer work and hence Government cars are supplied to the volunteers for use while on access visits.

When these visits take place outside normal office hours on Monday to Friday or on weekends, the volunteers collect the Government car from their nearest FACS staffer. Each volunteer then proceeds to collect their respective child and goes on to the agreed meeting place for the access visit. Problems arise should that car break down outside normal working hours. Even though the instructions booklet kept in the glove box of the Government car states that State Fleet is to be contacted should a breakdown occur, this service is apparently not available out of hours and volunteers are expected to use their own RAA membership for mechanical assistance. This assumes that the volunteers have RAA membership. My questions to the Minister are:

1. Is the Minister aware that volunteers are expected to use their own means should a Government car break down during times outside normal office hours because State Fleet is not available?

2. Will the Minister advise what happens if volunteers do not have RAA membership? Are volunteers without RAA membership expected to join up so that FACS can have this security on weekends?

3. If it is determined that State Fleet services are too expensive for after hours service, will the Minister investigate the possibility of FACS becoming a member of the RAA for after-hours services?

4. If this is not possible, will the Minister advise what other acceptable alternatives might be put in place by regional FACS officers in line with FACS volunteer policy that no volunteer worker be out of pocket while undertaking access visits?

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

POLITICAL GRANTS

In reply to **Hon. A.J. REDFORD** (2 October 1996).

The Hon. R.I. LUCAS: It is more than lamentable that the former Federal Government sought to shore up its own longevity in office by making a great many of the grants to which the honourable member refers. There is no doubt, however, that there is strong merit in aiding particular well-deserving community groups in appropriate circumstances. That South Australian community groups fared miserably at the hands of Federal Government grants allocations was reflected in their rejection of the Keating Government's 'largesse' in the March 1996 election—of the 12 Federal seats, only two are now held by the ALP.

Based on the evidence of community grants provided by the honourable member, the fact that the ALP holds 16 per cent of South Australia's Federal seats still seems remarkably high, when the South Australian community and sporting groups were only doled out a mere fraction of this figure. I doubt if the ALP will find itself in a position where it can again squander taxpayers' money, either at State or Federal level, for a long time to come.

MEMBER'S REMARKS

The Hon. BERNICE PFITZNER: I seek leave to make a personal explanation.

Leave granted.

The Hon. BERNICE PFITZNER: Yesterday the member for Spence, Mr Michael Atkinson, in his contribution to the Electoral (Miscellaneous) Amendment Bill said:

> The Hon. Dr Pfitzner said, 'Don't go and tell my constituents what I am doing in Parliament. You have no right to do that.'

He further said:

> At first she thought a candidate had no right to tell people what a member of Parliament was doing. She claimed it was a breach of parliamentary privilege. Can you believe it? Then she said it was defamatory, and then she said it must be contrary to the Electoral Act. . . The Hon. Dr Bernice Pfitzner is now proposing that this Bill be amended so that we have Singapore-style electoral campaigning, whereby you cannot criticise sitting members of Parliament.

The Hon. Diana Laidlaw: Who said this?

The Hon. BERNICE PFITZNER: This is the member for Spence, Mr Michael Atkinson. He later said:

> It is astonishing that the Liberal Party has not agreed to any of the Hon. Dr Bernice Pfitzner's proposals, and I congratulate the Liberal Party on that. Good on you; you have done the right thing; you have told her where to go. . . But if the Hon. Dr Bernice Pfitzner had had her way, it would have been—

The Hon. Diana Laidlaw interjecting:

The Hon. BERNICE PFITZNER: Yes, that is what he is—

> a criminal offence even to place letters into the electorate of Peake informing constituents about what she had done in Parliament.

This was in response to my contribution in February to the same Bill when I said:

> I wish to refer to the substitution of section 113. . .

and then described what was proposed, which was as follows:

> . . . to provide, first, where the Electoral Commissioner is satisfied that the electoral advertisement is inaccurate or misleading. . . secondly, where the Electoral Commissioner satisfies a court that an offence of misleading advertising has been committed, the court shall. . . thirdly, where the Electoral Commissioner satisfies a court that an offence of misleading advertising has been committed, an injunction for further publication may be granted by the court. I am fully supportive of this increased restraint and penalty as I have had experience with misleading and inaccurate material provided by Mr M. Atkinson, member for Spence, with regard to the Social Development Committee's report on prostitution. . . The honourable member has put it—

meaning the prostitution report—

> in a very inaccurate response. . .

And I quote some examples of this, as follows:

> The proposed new prostitution laws are not solely an initiative of the Liberal Party. They are also supported by the Hon. Terry Cameron, MLC (ALP) and the Hon. Sandra Kanck, MLC (Democrats). It has been incorrectly claimed that brothels will be moved away from the eastern suburbs and that red light districts will be established in Hindmarsh, Thebarton, Torrensville and Mile End. This is completely untrue.

I finally said:

> So, these are some examples of misleading and inaccurate statements. However, it is most unfortunate that a penalty for misleading and inaccurate material cannot be applied to political material until an election is called or the writs are issued. I also think that the penalty of $1 250 for a natural person and $10 000 for a body corporate is too lenient. This should be more in the region of $10 000 or $50 000 respectively. However, I will abide by my colleagues' recommended penalty. I support the Bill.

To clarify, there is no mention of Singapore-style election campaigning; there is no intent for the placing of criminal penalties; there is no claim of breaching parliamentary privilege; and there is no claim of breaching the Electoral Act. So I again say to Mr Atkinson: play the ball and not the person.

PORT AUGUSTA, LAW AND ORDER

The Hon. R.R. ROBERTS: I also seek leave to make an explanation.

Leave granted.

The Hon. R.R. ROBERTS: During Question Time in an explanation I did refer to the fact that there was an allegation that the unions at the power station at Port Augusta had threatened to go on strike. Due to the constraints of Question Time and the explanation I did not report to the Council that I did make inquiries with the trade unions at Port Augusta and I am assured that that situation that has been reported on the radio is incorrect. I note that the Attorney-General was concerned about that and I believe that it is in the interests of the people of Port Augusta and for the information of the Attorney-General that that report be clarified.

MATTERS OF INTEREST

SUPERANNUATION

The Hon. L.H. DAVIS: In the 1996 Federal budget the Government introduced a surcharge of up to 15 per cent on all employer contributions and deductable personal contributions made by individuals to superannuation funds where the annual taxable income of the individual is $70 000 or over. Last month the Federal Treasurer, Peter Costello, published the details of the proposed legislation which is to be backdated to 20 August 1996.

Initially it was suggested that taxpayers in defined benefits schemes, where the final benefit is paid as a lump sum and/or pension based on years of service or final salary will be particularly affected. To that extent, I should declare an interest in this subject. But the fact is that no-one can say with certainty how this legislation operates. Whereas superannuation expert Daryl Dixon believes members of defined benefit schemes will be worst hit, Ray Stevens of William Mercer argues that the unfunded defined benefit superannuation funds will be better off. Stevens argues that the legislation is so poorly drafted that it is difficult to be certain what is meant. It may be possible to avoid the surcharge on administration costs paid before the end of the year.

In recent weeks there have been conflicting reports on what it all means. My accountants and other accountants do not pretend to understand it. There is common agreement that there will be a significant administrative burden and a big work load for actuaries. As Dixon points out, actuaries traditionally adopt conservative forecasts about future earnings for superannuation funds, but under the proposed legislation fund members will suffer for this conservatism because their superannuation surcharge liability will now be based on the actuarial assessment of that benefit rather than the benefit they actually realise.

This means that many public servants will almost certainly be paying more tax on their superannuation benefits than they really should be, but they will not know about that position until a surcharge tax assessment has been received. To aggravate the situation, the Federal Government will charge interest on the outstanding annual tax assessments. Unfunded scheme members are also penalised because they have to keep making large contributions to their superannuation, whereas in funded superannuation schemes members can elect not to make a contribution and allow their fund balance to grow through the compulsory employer contribution of a minimum of 6 per cent. Recipients of golden handshakes or redundancy payouts which are not determined to be legitimate redundancy payments will also be slugged the 15 per cent surcharge over a five year period starting on 20 August 1996. The calculation of termination payments will be a nightmare.

This proposed legislation is a dog's breakfast. It is inequitable, extraordinarily complex and will be a lawyer's dream and accountant's nightmare. Most importantly, it is already having the most undesirable effect of driving people away from superannuation and turning on its head the recently established and generally accepted superannuation arrangements which involve universal employer and employee contributions. In fact, a survey of the Institute of Chartered Accountants in Queensland revealed that 75 per cent of Queensland's chartered accountants are advising their clients not to put their savings into superannuation when the surcharge is introduced but, rather, invest in shares, pay off their mortgages, or, through negative gearing, buy property. That advice has been given to 15 000 small and medium-size businesses in Queensland. In fact, some of those accountants surveyed reported that up to 50 per cent of their clients had approached them with concerns about the surcharge. In an ageing population a superannuation scheme which is universally accepted and fair is most important.

These concerns are also reflected in the well respected Association of Superannuation Funds of Australia, which represents seven million members. Its recent legal advice has cast doubt on the constitutional validity of the proposed legislation and also believes that the proposed mechanism has gross inefficiencies and inequities. The Association argues that the administrative complexity is high, and is feared by the industry; funds which do not have any liability to pay the surcharge will bear the cost of administering the surcharge; the advance instalment of the tax required clearly shows the proposal is basically a revenue grab and is not driven by equity considerations; respected commentators have argued correctly that attempting to make equity changes at the contribution stage is not the right way to go—equity is best addressed at the benefit stage; and, finally, the tax free portion of an employee redundancy payment is excluded and a public sector employee on a salary of $40 000 who received a redundancy payment from a super fund of over $30 000 will still be treated as a high income earner and trapped by the surcharge.

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

YOUTH, *SEEN AND HEARD*

The Hon. T.G. CAMERON: Good speech! I rise today to speak on the matter of South Australian youth and their view of the political process, as recorded in a recent publication *Seen and Heard—a Foolproof Guide to the Youth Vote*. I recommend that every member of Parliament who is sincerely interested in what the youth of today think, believe and feel about our society should take the time to read this excellent book. *Seen and Heard* was a project initiated by the Youth Affairs Council of South Australia. It involved a six month process of researching the concerns of young women and men via a community arts-based process. The book chose the medium of cartooning, a visual language that has wide appeal and one which transcends cultural barriers but which can embrace the touchiest of subjects with humour.

Workshops were run in a wide range of South Australian communities in order to gain as broad a perspective of the views of youth as possible. Ages ranged from 15 to 26 and input came from young men and women in roughly equal numbers from a cross-section of cultures, origins, circumstances and persuasions. The authors state in the opening of the book that the purpose of their work was to:

> . . . help bridge the gaps between polarities of power in our society: decision makers such as politicians, educators, parents, law enforcers and service providers at one end and young people at the other.

The book hopes that, as a result of its production, those in positions of power within our society will begin to view our young without the negative stereotyped images that are so often placed on them. I am sure that many members of this

Council will remember from their own youth that famous line from the Bob Dylan song 'The Times They are A-changing':

> Come mothers and fathers throughout the land
> And don't criticise what you can't understand—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: Yes, Minister, I am that old. I believe that young people should and need to be seen and heard by policy makers and politicians and encouraged to participate more fully in decisions and processes that affect them. This book tackles many of the issues that concern the youth of today and I intend to mention just a few of the quotes used. Page 17 deals with how young people—

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: Stop wasting my time, Redford. Page 17 deals with how young people see politicians—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: Honourable Redford should stop wasting my time—and I suggest we read it very carefully. Quotes from young people in this section include:

> You put too much energy into finding dirt on each other rather than working together.

If the cap fits, Angus, you can wear it. The young see politicians as getting rich, mud slinging, having long holidays, beefing themselves up, cutting things back, mostly male, telling lies, selfish, making false promises, getting to the top and getting toppled, stressed out, boring, acting like little kids, arguing too much, unpopular, lazy, old, bald, overpaid, crusty and full of hot air. About the only—

The Hon. P. Nocella interjecting:

The Hon. T.G. CAMERON: The Hon. Paolo Nocella interjects 'impotent'. I do not know about whom he is talking, but about the only description that does not fit this Chamber is 'bald'—well, almost. They suggest that politicians should have to directly experience the results of their decisions, an interesting proposition, and I wonder if any of the current Ministers would be willing to take it up. Employment is covered on page 18 and is a topical subject considering the recent moves by the Howard Government to force unemployed youth to work for the dole. It states:

> No free trials. Work experience is free labour and exploitation and traineeships should be paid and not used as volunteers.

The book contains many other relevant chapters that deal with the concerns of our young and there are too many for me to touch on here today. We would all do well to take the time to read this book from cover to cover to remind ourselves that the young are our future, that their needs are important and it is imperative that their views and opinions be taken into consideration as part of the decision making process. As George Bernard Shaw once said:

> It's all the young can do for the old to shock them and keep them up to date.

I suggest this book does exactly that and I highly recommend it. I also commend the Youth Affairs Council for its work as well as the authors and all those involved in its production.

LOCAL GOVERNMENT ELECTIONS

The Hon. BERNICE PFITZNER: I wish to raise as a matter of importance the matter of local government elections and the Chinese community. The nomination for the position of Lord Mayor has exposed some rifts in the local Chinese community. Many, like myself, see considerable benefits for Adelaide in having a Lord Mayor of Chinese origin at a time when South Australia is endeavouring to strengthen its business ties with Asia. However, there are others who for several years have been expressing some worrying concerns. These concerns have been reported to me by individuals whom I know well and whose integrity I respect. Therefore, I think it is my duty, in the public interest, to raise these matters.

The concern relates in the main to the South Australian Chinese Chamber of Commerce which, I understand, backs Mr A. Huang in his Lord Mayoral quest. It is claimed that three of his strongest backers in the chamber have dubious track records. I would prefer not to name them, although I would expect that Mr A. Huang will well know to whom I refer.

All three are very senior members of the Chinese Chamber of Commerce. I understand that one was an illegal immigrant, although he has become an Australian citizen by marriage. First, it is alleged that he owes $200 000 to an ex-business partner who is now suing him. Secondly, he is said to have been promoting and seeking Australian investment in a venture selling gaming machines to the Chinese province of Liaoning. Informed sources suggest that this province did not at the time allow gaming machines. Thirdly, he has claimed publicly to have sold breeding cattle to the province of Guang Chou, although local businessmen dispute this claim.

Another senior member of the chamber and also a strong supporter of Mr A. Huang has been convicted of the serious crime of abalone poaching. He leases and subleases business premises in Adelaide and there have been reported a number of instances of questionable management practices. A further senior member is being pursued internationally, with American and Malaysian nationals seeking outcomes from their investments in business ventures in China. Although born in Malaysia, he has a Belize passport and has been denied a Malaysian passport. This person is further involved in the selling of gambling machines in China.

Unlike these three, the majority of members of the Chinese Chamber of Commerce are of the highest personal integrity. In fact, I wonder whether these members are all aware of the claim that the chamber is said to be providing $100 000 to support Mr A. Huang's Lord Mayoral bid. I also wonder whether they know what happened to the nearly $30 000 which was raised in the name of the Chinese Chamber of Commerce to support those Australian Chinese standing for local government.

The Hon. Diana Laidlaw: Are these allegations?

The Hon. BERNICE PFITZNER: Yes, allegations. There is no trace of this sum in the chamber's accounts. Issues of power play, vote stacking and proxy voting within the chamber do not make reassuring reading, but could be dismissed as internal politics and personality conflicts. However, one report from many years ago deserves a response. When Mr A. Huang became President of the Chinese Association of South Australia some years ago he refused to endorse the previous President as an honorary life member of the association in spite of the fact that this respected individual had devoted nearly 20 years to the association. Actions such as this have left wounds in the local Chinese community.

As I said, I do believe it would be a great asset to Adelaide to have a Lord Mayor of Chinese origin. However, I do not wish to see this State embarrassed after the event by electing someone who does not himself have a long track record in business and who could well be obligated to questionable

business backers. Therefore, I ask, for the sake of all the many legitimate Chinese Australian business interests in South Australia, and for the sake of those respected fellow Adelaide city councillors who support him, that Mr A. Huang clear the air and refute the concerns which are being raised.

DEAF-BLINDNESS DISABILITY

The Hon. P. NOCELLA: As I said in an earlier contribution in this Chamber, deaf-blindness is unquestionably one of the most serious disabilities known to humankind. Sight and hearing are two of the most important ways in which we gain information and knowledge about the world and its environmental activities. Sight and hearing provide individuals with a wealth of learning experiences. When these two primary senses are absent or severely limited, assimilation of information is slow. Blindness hinders the ability of individuals to experience everyday things, such as independent movement, colour, shape and symmetry, and the activities which vision normally facilitates. Similarly, deafness hinders an individual's ability to hear sounds, voices and conversation, music and environmental sounds, and sounds that provide awareness of immediate events. As a dual disability, deaf-blindness creates unique problems of communication and mobility which often result in intense isolation and loneliness for many individuals.

The international definition of 'deaf-blindness' is that a person is considered to be deaf blind if they have impaired sight and hearing to such an extent as to give them obvious difficulties in their daily life. This is a functional definition which is based not strictly upon measurements of sight or hearing but on how a person adjusts to his or her handicaps and needs. It acknowledges the fact of deaf-blindness as a double handicap, giving greater difficulties than just adding the problems of visual and auditory impairment. This is most important. There are greater difficulties than just the sum of the two disabilities.

I keep getting replies from the Minister for Disability Services and the Minister for Education which inform me that there are strategies, schemes, techniques and a number of initiatives that will take care of people with a disability, including those who are deaf-blind. This inclusion is nonsensical because deaf-blindness is a unique disability requiring specialised care, and we need to have people who are properly trained. Unfortunately, adequate training facilities do not exist in Australia. People have to seek training from places such as Birmingham in the UK, Italy, Sweden, the United States or the Netherlands—somewhere outside Australia.

This is the crux of the matter. There seems to be a fundamental misunderstanding. Whilst I do not dispute the good intentions of the various Ministers in assisting this group of people, the fact is that we do not have properly trained carers for deaf-blind people.

In April, Dr William Green from the National Blind Association in Italy (the so-called League of the Golden Thread) will visit Adelaide for a conference. This will provide a watershed—a very important moment during which we can focus on this area of disability. We will be able to draw from Dr Green's wide experience in Britain, France, Norway and Italy. I am sure that Dr Green will also provide very detailed information regarding the training of carers. I hope that this opportunity will not be missed by both the Minister for Disability Services and the Minister for Education to draw from his advice and to take this opportunity to remedy this situation and assist in the appropriate training of carers or interpretive translators, as they are referred to.

RENMARK-PARINGA STREETS

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

That by-law No. 4 of the District Council of Renmark-Paringa concerning streets, made on 28 January 1997 and laid on the table of this Council on 11 February 1997, be disallowed.

The by-law in respect of which this motion is moved deals with streets in the town of Renmark and the area covered by the council. It is a conventional by-law except for the fact that at its conclusion it contains a clause which provides:

No person shall ride a bicycle, skateboard, rollerblades or rollerskates in any street to which this paragraph applies. This paragraph shall apply to such portion, or portions, of the area as the council may by resolution direct.

Not only does this by-law seek to control bicycles, but it also seeks to control the use of skateboards, rollerblades and the like. Members may recall that in 1995 the Road Traffic Act was extensively amended to make provision for the use of small-wheeled vehicles such as rollerblades.

Previously, the Road Traffic Act contained no provisions at all relating to those devices. However, the Road Traffic (Small-Wheeled Vehicle) Amendment Act prohibited the rider of a small-wheeled vehicle from riding on designated roads, and those roads were defined. The Act was amended to provide two regulatory mechanisms for local councils wishing to control small-wheeled vehicles in their area.

First, the council could apply to the Minister for Transport for approval to install signs and pavement markings prohibiting the use of these vehicles on those roads and footpaths that were considered unsafe for their use. The second mechanism was that the council could secure the passage of a regulation made by the Governor in Council on the recommendation of the Minister.

In this case, the district council has sought not to use either of the now permitted options. The Parliament previously considered a by-law that overlooked the amendments to the Road Traffic Act. That was a by-law of the Corporation of the City of Marion. On that occasion, the Parliament accepted the view of the Legislative Review Committee that it was inappropriate to pass a by-law inconsistent with the regime now established under the Act. Section 177 of the Road Traffic Act provides:

If a by-law made by a council is inconsistent with this Act or a regulation made under this Act, this Act. . . prevails and the by-law is, to the extent of the inconsistency, invalid.

That is a further provision which bears upon this issue. The Legislative Review Committee considered the matter and resolved that this by-law ought to be disallowed. The committee communicated with the council to inform the council officers of the fact that this by-law was inconsistent with the Road Traffic Act, and representations were sought from the council. However, the council elected to take no action in relation to the matter. I commend the motion to the Council.

Motion carried.

SOUTH AUSTRALIAN CONSTITUTIONAL ADVISORY COUNCIL

The Hon. R.D. LAWSON: I lay on the table the first report of the South Australian Constitutional Advisory Council, and move:

That the report be noted.

In October 1996 the then Premier released the first report of the South Australian Constitutional Advisory Council, which had been established in the preceding year. Its members represent a wide range of interests across the community, and it was chaired by Associate Professor Peter Howell of the Flinders University. Other members comprise Mrs Fran Awcock, Ms Joy Battilana, Ms Vicki Chapman, Mr Patrick Conlon, Mrs Rosemary Craddock, Miss Michelle Den Dekker, Dr the Hon. A.J. Forbes, Ms Audrey Kinnear, Mr Michael Manetta, Mr Matthew Mitchell and the Solicitor-General, Mr Brad Selway QC.

The first report of the council is a great testament to the wide ranging knowledge, experience and wisdom of the members of the council, in particular, the Chairman, Professor Howell. The terms of reference are set out in the first report and, bearing in mind the time, it is not my intention today to go through the report in great detail, and I will shortly seek leave to conclude my remarks.

However, on this occasion I will briefly mention the terms of reference of the committee, which were to investigate and report on effective constitutional arrangements and Government structures which will sustain national unity and regional diversity into the twenty-first century, with particular respect to South Australia.

The terms of reference do not assume that there will be any changes to the national constitutional arrangements but, wisely, they pose certain questions if the Commonwealth of Australia were to cease to be a constitutional monarchy. Those questions relate particularly to the constitutional arrangements which would in that circumstance apply in this State.

The terms of reference also required the committee to report on the democratic or constitutional processes necessary in the event that it was deemed appropriate or necessary to effect some change. The third term of reference dealt with the adequacy or otherwise of the current distribution of powers between the Commonwealth, the States and Territories and local government and sought advice on what changes, if any, should be made. Finally, the terms of reference required the council to examine ways of ensuring adequate consultation with the people and their participation in decision-making in those matters.

The council in its first report embarked upon a most thorough analysis of the issues required of it and made some 41 recommendations. Of course, the recommendations are made in the context of a continuing debate about the appropriate constitutional arrangements for this country. Some of the major recommendations in the first report included the following propositions: first, that changes to all State constitutions should apply simultaneously if the Commonwealth was to cease to be a constitutional monarchy.

The second recommendation was that the powers of the head of State should essentially remain the same if Australia becomes a republic. Thirdly, it was recommended that the reserve powers in the Constitution be not codified. Fourthly, it was recommended that a State-based plebiscite should be held before any Federal referendum to obtain popular support for negotiations with the Commonwealth on incorporating State issues into referendum questions.

Fifthly, it was recommended that a South Australian head of State, even in a republican constitution, should still be entitled 'The Governor'. Sixthly, it was recommended that a Federal referendum should be processed only after the consent of the Parliaments of all of the States. Seventhly, it was proposed that any question to be proposed to an indicative national plebiscite should be posed in a fair manner with objective and balanced material published and distributed to all electors, with both sides of the question being presented.

Bearing in mind that there will be this year a popularly elected constitutional convention in this country pursuant to a decision of the Federal Government, and bearing in mind that there is an ongoing debate—which I believe waxes and wanes from time to time—in the community on constitutional issues, this is a most timely report and one which I, and others in the Parliament, believe ought be debated here in the Legislative Council.

The report does not represent Government policy; it represents the advice of a community body. A number of members of this Chamber and of this Parliament are interested in constitutional matters, and within the Government Party the Hon. Jamie Irwin chairs a constitutional task force which has been examining a number of the issues that are raised in the first report of the South Australian Constitutional Advisory Council. A number of arguments and interesting scenarios are described in the report, and on a later occasion it is my intention, when resuming my remarks, to examine those matters in some detail. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

SELECT COMMITTEE ON THE PROPOSED PRIVATISATION OF MODBURY HOSPITAL

The Hon. J.C. Irwin, for the Hon. BERNICE PFITZNER: I move:

That the time for bringing up the committee's report be extended until Wednesday 23 July 1997.

Motion carried.

SELECT COMMITTEE ON OUTSOURCING FUNCTIONS UNDERTAKEN BY E&WS DEPARTMENT

The Hon. J.C. Irwin, for the Hon. L.H.DAVIS: I move:

That the time for bringing up the committee's report be extended until Wednesday 23 July 1997.

Motion carried.

SELECT COMMITTEE ON TENDERING PROCESS AND CONTRACTUAL ARRANGEMENTS FOR THE OPERATION OF THE NEW MOUNT GAMBIER PRISON

The Hon. J.C. IRWIN: I move:

That the time for bringing up the committee's report be extended until Wednesday 23 July 1997.

Motion carried.

SELECT COMMITTEE ON CONTRACTING OUT OF STATE GOVERNMENT INFORMATION TECHNOLOGY

The Hon. Diana Laidlaw, for the Hon. R.I. LUCAS: I move:

That the time for bringing up the committee's report be extended until Wednesday 23 July 1997.

Motion carried.

SELECT COMMITTEE ON PRE-SCHOOL, PRIMARY AND SECONDARY EDUCATION IN SOUTH AUSTRALIA

The Hon. Diana Laidlaw, for the Hon. R.I.LUCAS: I move:

That the time for bringing up the committee's report be extended until Wednesday 23 July 1997.

Motion carried.

SELECT COMMITTEE ON POTENTIAL CONFLICT OF INTEREST BY MINISTER CONCERNING 'GOULDANA'

The Hon. Diana Laidlaw, for the Hon. K.T.GRIFFIN: I move:

That the time for bringing up the committee's report be extended until Wednesday 23 July 1997.

Motion carried.

LEGISLATIVE REVIEW COMMITTEE: ELECTRICITY ACT REGULATIONS

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

That the report be noted.

This unanimous report of the committee deals with regulations which were made under the Electricity Act and which came into force on 1 January 1997. The particular regulations provide for the licensing of electricity entities, the powers and duties of electricity entities, safety and technical issues, and other provisions relating to safety requirements for electrical installations. They are very important regulations which deal with matters of great significance, and the new regulations are made in the context of the new Electricity Act of 1996 which introduces a new regime in the electricity supply industry in this State.

The particular matter which caused some concern in the Legislative Review Committee arose in this way: when regulations are forwarded to the committee for consideration they are accompanied by a report of the Minister or other person sponsoring the regulations. That report, in accordance with the provisions of the Cabinet handbook, is required to cover a number of issues, including the consultation process which has been undertaken prior to the introduction of the regulations. The process of consultation is now regarded as being both desirable and necessary for effective regulation, especially in a matter such as this.

However, upon reading this particular report relating to the regulations, it was seen that the consultation process in relation to the regulations had not occurred until after the regulations were made. The report stated that the consultation requirements were met by sending a copy of the *Government Gazette* to the persons who were being consulted. The committee took the view that this was really no consultation at all. The Minister's report had said that the consultation was 'unusual'. The committee's view was that it was not only unusual; there were no consultations in any effective sense.

The committee had the benefit of evidence from a number of representatives of ETSA and of the Office of Energy Policy and the committee was assisted in its deliberations by that evidence. In the end the committee had no concern at all about the particular aspects of the regulations, and no objections from members of the public were received. However, the point of concern was the failure of effective consultation. The committee concluded that cutting corners in matters as important as consultation is undesirable as a matter of policy. The committee accepted that there will be many occasions when an agency will find it difficult, if not impossible, to undertake meaningful consultation prior to introducing new regulations. However, that was really not the case in the present situation. It is true, as the committee found, there were some unusual circumstances in relation to this matter, but the committee was of the view that those circumstances were not so unusual as to warrant an abandonment of any attempt to embark upon a consultative process before the regulations were made.

The committee recognises that it is not possible to lay down in advance the precise process of consultation which will be undertaken in any particular case. The committee accepted that the level of consultation will vary depending upon the extent of the changes proposed in regulations. As a general rule, the committee concluded the greater the level of change, the greater the need for consultation. It was our view that consultation should be undertaken at a time when it is possible to make appropriate amendments if necessary; in other words, the consultation will be an effective two-way process of communication.

The committee decided in the end not to recommend disallowance of these regulations, because it is a fact that the regulations themselves are the subject of a review which is going on at this time and there will be almost immediate opportunities for interested parties to make submissions during that process. Accordingly, the committee resolved to take no action in relation to the regulations other than to write to Ministers and agencies reminding them of the requirement to forward a report outlining the consultation process, and that will be undertaken. The committee was of the view that this was an important matter and one that should be the subject of a separate report to the Council to make members aware of this important issue. I commend the motion.

The Hon. P. HOLLOWAY: The Opposition supports the report of the Legislative Review Committee in relation to the electricity regulations. The Electricity Bill is a quite significant Bill that was introduced in this Chamber last year to introduce national competition policy into the electricity industry. The regulations that have followed that Bill are also substantial. Previously, many of the regulations relating to electricity standards and so on were internal Electricity Trust rules. What we are doing now, in going towards a national competitive electricity industry, is to have regulations which will conform with those across the nation. So, it is a significant piece of legislation. The regulations are significant, and they do have a great impact upon the community and, in particular, the work force.

It is imperative, therefore, that with such important regulations there should be widespread consultation, particularly with those who will be affected by these regulations and those who will have to work under these regulations. The Legislative Review Committee, when it received the regulations, noted in the explanation received from the department:

There has been some urgency involved in meeting the legislation's commencement date of 1 January 1997. Copies of the regulations were sent to relevant industry and consumer groups as above following their publication in the *Government Gazette*.

In other words, it was consultation after the event, not before the event.

I should also point out that these regulations were circulated to a wide range of interested groups, including the Attorney-General's Department, the Crown Solicitor's Office, the Department of Premier and Cabinet, the Department of Treasury and Finance, the Department of Environment and Natural Resources, the Department of Housing and Urban Development, and the State Local Government Relations Unit. The Electricity Sector Reform Unit was also actively involved in framing the legislation. ETSA was consulted, as well as the Gas Company, Cowell Electric Supply Company, the Property Council of Australia, SA Gas Energy Users Group, the Employers Chamber, the SA Farmers Federation, the Institute of Engineers, the United Trades and Labour Council, the Conservation Council, National Grid Management Council, New South Wales Electricity Task Force, Victorian Electric Supply Industry Reform Unit, Queensland Electricity Reform Unit, Tasmanian Office of Energy Planning, ACT Department of Urban Services, Commonwealth Department of Primary Industry and Energy, Adelaide Refinery, Western Mining, Boral Energy, CU Power Australia, BHP Engineering, BHP Long Products Division, the Local Government Association, the Consumers Association, the Mayor of Coober Pedy and the NECA (South Australian Chapter). Unfortunately, they did not circulate it to what used to be the old Electrical Trades Union, now the CEPU, the major union covering those particular workers involved.

As I said, the legislation was important and it was necessary to get it into place fairly quickly. Certainly the Legislative Review Committee found no reason to disagree with the regulations when they were finally in place, but it did draw some important conclusions. The committee found that the consultations in relation to the regulations were not conducted satisfactorily. Secondly, it found that the need for timely and effective consultation with interested persons before regulations are made or amended should be emphasised to Ministers and other agencies responsible for developing regulations. Thirdly, but notwithstanding the absence of a satisfactory program of prior consultation in relation to these regulations, the committee received no criticism of the substance of the regulations, and it would not be appropriate to recommend their disallowance by Parliament.

The committee then resolved to take no action in regard to the regulations and recommended that Ministers and agencies be reminded of the requirement of the Cabinet handbook to submit to the Legislative Review Committee a report which outlines the consultation that has occurred during the development of the policy underlying new regulations. I think it has been a useful exercise in drawing attention to the fact that, when there is such a major change to such an important industry, there should be far better consultation in relation to regulations than took place in this instance.

I support the motion that the report be noted and hope that, in future, when such major changes are made, there will be far better consultation, particularly with those who are intimately affected, namely, the relevant sections of the trade union movement that have to deal with the particular regulations.

Motion carried.

STATUTORY AUTHORITIES REVIEW COMMITTEE: LEGAL SERVICES COMMISSION

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

That the report of the Statutory Authorities Review Committee on Review of the Legal Services Commission (Part 2) be noted.

(Continued from 5 March. Page 1096.)

The Hon. A.J. REDFORD: I support the motion. I congratulate the staff (Andrew Collins and Anna McNicol) in putting together a report of outstanding quality. I also acknowledge the assistance of my parliamentary colleagues, first the capable Presiding Member (Hon. Legh Davis), my colleagues the Hon. Anne Levy, yourself, Mr Acting President, and the Hon. Julian Stefani.

Much of the report has been referred to and mentioned in previous contributions, first made by the Hon. Legh Davis and secondly by the Hon. Anne Levy, and I will not seek to go over the same ground, except to remind members that chapter 1 of the report dealt with women and chapter 2 referred to criminal proceedings, the Dietrich decision, and listing procedures in the Family Court, and their impact upon legal aid.

Since the tabling of that report, it is pleasing to see in some sense at least that the Attorney-General (Hon. Trevor Griffin) was the first State Attorney-General to come to an agreement with the Federal Attorney-General (Daryl Williams) on future funding of legal aid under the new budget guidelines of the recently elected Federal Government. In that regard I would first congratulate our Attorney-General on being able to achieve a resolution. The State Attorney-General was put in an extraordinarily difficult position, not the least of which being that it was coming up to decision time in terms of how the Legal Services Commission was to be operated over the next two to three years. In short, the agreement made by the Commonwealth and State of South Australia was to the effect that the Commonwealth would inject funding at a rate approximately equivalent to the amount contributed in the last financial year towards Family Court matters and, if that money should run out, there was no expectation on the part of the State of South Australia to top up any shortfall. I see some significant problems in relation to that.

Since that tabling of the report, the Hon. Anne Levy and I had the honour of being invited to present evidence to the Senate Select Committee on Legal Aid and, whilst we presented a united front on most issues, I will advise members of some differences that we had. It is important to note that in a submission made by the Legal Services Commission to the Senate select committee the South Australian commission advised the committee that in 1992-93 some 102 applications were approved for separate child representatives in family court matters. In three short years the numbers of applications made and approved have risen to 463, representing an increase of about 450 per cent since the 1992-93 year.

If that trend of increase continues—and there appears to be no reason why that will not occur—the commission will be faced with some very difficult decisions late in the next financial year. Given the Commonwealth's strange attitude, that problem will have to be dealt with by the Commonwealth as opposed to the State. I will go on record as saying that it is likely that money will run out for Commonwealth and family law matters by about February or March next year. It

will be interesting to see what the Commonwealth does when confronted with that problem.

I will deal first with some of the comments made by the Hon. Anne Levy, and will then turn to some of the comments made by the Hon. Rob Lawson. I will commence with a comment made by the Hon. Rob Lawson as follows:

> I was not convinced of the correctness of the assertion by the Australian Law Reform Commission that there is a systemic discrimination against women in our legal aid system. It appears that the committee seems to have accepted that proposition.

I have since reread that report and I have to say that it was never the committee's view—and I say that in a collective sense—that we accepted the Australian Law Reform Commission view that there was systemic discrimination. My reading of the report indicates that we simply noted that there had been a statement to that effect. I assure the honourable member that there was certainly no acceptance of that proposition on the part of the majority of members of the Statutory Authorities Review Committee. We were merely endeavouring to report what that report gave.

The Hon. R.D. Lawson interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and I accept that. It would come as no surprise to the Hon. Robert Lawson that when the Hon. Anne Levy and I gave evidence to the Senate select committee a quite different view was put by me from what she put, and I will come to that. I agree entirely with what the Hon. Robert Lawson says in that regard and indeed there was a deal of discussion about whether or not there was systemic discrimination within the Legal Services Commission. There is simply no evidence—and I cannot emphasise that too strongly—of any systemic discrimination against women by the Legal Services Commission. One cannot often point to statistics that would prove such a point, but in this case we have those statistics.

In criminal law applications approval rates for men and women are almost identical—I think slightly higher for women. In family law matters—and one can take note that there are as many women involved in a matrimonial dispute as there are men, as you have to have one of each—women received approval rates for legal assistance at a much greater rate than that of men—something of the order of 12 or 13 per cent. In that regard I cannot see how anyone could possibly argue that there is some systemic discrimination.

The sort of arguments put by the Hon. Anne Levy bear no scrutiny at all. I will give members some examples which, although they may sound silly, demonstrate in simple terms what I am alluding to. If one follows the honourable member's argument to its logical conclusion, one could be justified in saying that the breast cancer program adopted by successive Commonwealth Governments is systemically prejudicial to men because money put towards breast cancer is not allocated to men. That demonstrates how absurd it is. I will put it another way—and it was an exchange that occurred between me and Senator Abetz on the topic at the Senate select committee. He asked whether I believed there was some discrimination and, if there was, how it could be overcome. I said that, based on the logic applied by the Hon. Anne Levy, perhaps the Government should embark on a path of encouraging more women to commit crime, which would then enable greater resources to be applied to women. It is a ridiculous and absurd answer and bears no scrutiny to any proper or logical argument.

The Hon. Robert Lawson indicated that the recommendations were not particularly controversial or novel and in fact were rather modest. I take some pride in that. The Legal Services Commission and the legal system have been subjected to all sorts of inquires in the past 10 years both at Federal and State levels and we have seen all sorts of radical suggestions being thrust upon the legal system. It is heartening to be involved in an inquiry in which a rational and careful analysis of some of the suggestions has been applied. The recommendations and matters discussed very much reflected the responsible submissions made to the committee by a vast number of people. Indeed it is clear that the recommendations are largely a reflection of the evidence we received from the large number of witnesses with a lot of experience, who could easily be described as experts in their respective fields.

Perhaps the fact that there is nothing new or novel is a reflection of the fact that there are no simple quick-fix solutions to the problems faced by the justice system. There has been a seemingly unending number of inquiries into the cost of justice, access to the law and so on, and it is in that context that our proposals are not particularly novel. Indeed, I do not believe that that should be surprising if one approaches this whole topic with some degree of care and critical analysis.

The other limitation that we had (if I can make a general comment in response to the Hon. Robert Lawson's comments) was that, to some extent, we were confined by our charter which was to look into the Statutory Authorities Review Committee as opposed to embarking upon a general inquiry into the legal system. That, I think, charged us with some degree of responsibility not to chase every rabbit down every burrow and not to enlarge this inquiry to any greater extent than that which was necessary.

I note that the honourable member did say that he was disappointed that the committee only set out options rather than stated a preferred option. It is for the Government to deal with these problems. Government backbenchers comprising part of the committee and the Opposition acknowledge that it is the Government which has to deal with the issue. What we sought to do was set out some of the options without attempting in any way to pre-empt any decision on the part of the Attorney to deal with this very difficult and vexed issue. We did comment at length on one attempt to resolve it, which the Attorney quite rightly put out for public discussion. I think it would be unfair on the Attorney and cut across some of the things that he was planning if we sought in any way to pre-empt that process.

I am of the view that a cautious approach in dealing with Dietrich is appropriate. I know that there has been a significant number of applications and I am also aware of the fact that South Australia has more Dietrich applications on a population or criminal matter basis than any other place, and that probably is a reflection of the fact that the profession in South Australia is prepared to go to the trouble to ensure that their clients are properly represented.

The other point is that Dietrich, in legal terms, is a relatively new concept and there are many issues that are yet to be determined in relation to Dietrich, particularly the extent of its operations. There was a question which went to the High Court recently as to whether Dietrich should cover the committal process; there are questions in relation to determining whether or not a person is indigent, and access to spousal and family resources; and there are many other issues to be resolved. It is my view that at this stage that ought to be left to the common law and be allowed to develop.

I think that once things settle down the difficulties caused by Dietrich will diminish and, in my view, the overall cost to the State, whether it be done through the Legal Services Commission or directly through the Attorney-General, will also, as a consequence, diminish. It is my view that we need to approach this issue with some degree of caution.

One of the other issues that was raised in this report was the question of how to deal with in *re K*, to which I referred earlier in this contribution. It is a very difficult issue, but I think, at the risk of labouring the point, it is important to understand how in *re K* operates so that one can understand why legal services operates in the way it does.

In *re K* was a decision in which the court set out criteria for a separate legal representative to be appointed to act on behalf of children in a Family Court matter, and it extended quite significantly the grounds, reasons and basis upon which such an order for that representation should be made (and I referred earlier to the increase in the number of cases). Neither of the principal parties to the proceedings—that is, the husband or the wife—has any control as to whether or not a separate representative is to be appointed; nor should they have any role in determining who should be the representative or the nature or extent of the instruction given to that representative; and nor should they be in any position to control how that representation should be conducted.

I say that for obvious reasons. We cannot have a husband saying, 'I don't want a separate representative inquiring into my sexual practices because that might lead to a criminal prosecution.' That is not in the best interests of the child. We cannot have a husband saying, 'I don't want the separate representative securing psychiatric or psychological reports.' We do not want a situation where the wife or the mother may say, 'I only want the child represented so as to secure reports from particular experts.' It would make a mockery of the separate independent representation to be obtained in those circumstances.

The Hon. Robert Lawson refers to the court ordering costs, and as that is part of our recommendations I have no objection to that. However, I have to say that it is peculiar to the Commonwealth and is quite clearly a Commonwealth responsibility, and the committee was reluctant to go too far down the track in an area that is quite clearly the sole province of the Commonwealth. That is why we couched the recommendation of the committee in the terms that we did, as follows:

> Recommendation 8.
>
> The committee recommends the State Attorney-General request that the Commonwealth Government—
>
> (a) provide sufficient funds to the commission to allow appropriate funding in all cases where the court orders the appointment of a separate representative under *re K* guidelines without any reduction of other services provided by the commission; and—
>
> (b) investigate giving the Family Court the discretion to make the orders for the recovery of costs of separate child representation from parties to an action where they have the ability to meet these costs.

We thought that it would be a little presumptuous for a standing committee established under State legislation in a State Parliament to go too deeply into those areas: it is quite clearly a Commonwealth responsibility. We did not preclude the option of awarding costs after the completion of the matter, but again that is a matter that should be investigated by the Commonwealth.

One would imagine there would need to be extensive consultation both with the legal profession, welfare and other officers, the Legal Services Commission and the court (through the judges). It is a very difficult issue, both conceptually and practically, and is one that should be approached with enormous caution.

Finally, I hope I will not have the opportunity to talk about the commission for some time. I do not say that in any derogatory sense, but the committee is extremely supportive of the commission and the extraordinary difficulties that it has had to confront in previous years. I hope it will be able to get on with its difficult job. It is an outstanding commission and, on the evidence before me, it is the most efficient commission in this country.

I must also say that the commission is innovative and certainly reacts positively to constructive suggestions: it is not a conservative legal institution but one that plays an absolutely vital role in the delivery of appropriate justice services to the community. Indeed, it provides a model to the rest of Australia, not just in terms of other Legal Services Commissions but also in terms of other groups that provide legal assistance to the community. One example that springs to mind is the Aboriginal Legal Rights Movement. I am sure that other members will agree with me when I say that it is an institution of which we can all be proud. It has not sought to obfuscate or obstruct change but it has sought to react to community demands and changes. I thank you, Mr Acting President, and my colleagues, and I commend the report.

Motion carried.

TOURISM COMMISSION

Adjourned debate on motion of Hon. R.R. Roberts:

1. That a select committee of the Legislative Council be appointed to inquire into matters surrounding the—
   (a) termination of the employment of Mr. Michael Gleeson as Chief Executive of the South Australian Tourism Commission;
   (b) attempts to terminate the employment of a senior executive of the Tourism Commission, Mr. Rod Hand;
   (c) appointment of Ms. Anne Ruston to the position of General Manager of the Wine and Tourism Council of South Australia, including the role of the Minister of Tourism, Hon. G. Ingerson, M.P., in these matters.
2. That Standing Order 389 be suspended as to enable the Chairperson of the committee to have a deliberative vote only.
3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being presented to the Council.
4. That Standing Order 396 be suspended as to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 5 March. Page 1100.)

The Hon. SANDRA KANCK: Following the Minister's response in the Council a fortnight ago, the Hon. Mike Elliott wrote to Minister Ingerson seeking clarification on several matters. I will read the Minister's response, as follows:

> I refer to your letter of 18 March 1997. In response to your questions I provide the following information.
>
> 1. As part of the normal business of government as the then Minister for Tourism I had regular meetings with either the Chief Executive SATC, Mr Gleeson, or with the Chief Executive and the Chairman SATC, Mr Lamb, or the Deputy Chairman SATC, Mr Phillip Styles. In accordance with standard practice at these meetings the work of individuals within the agency was discussed. This was normal practice. I always held Mr Gleeson, as the Chief Executive of the SATC Board, where it related to the Board, ultimately responsible. At all times they were aware of this and made all decisions regarding staffing. At no stage did I usurp any authority that the agency had relating to staffing decisions.
>
> I wish to point out that all bar Mr Santer and Mr Price are still employed by the SATC. After I was no longer the responsible

Minister the SATC Board made the decision not to renew Mr Santer's and Mr Price's employment contracts. I am advised that Mr Hand, Mr Evans and Mr Rossiter are all still employed by the SATC.

I am advised Mr Gleeson organised for Mr Hand to go on secondment to become the Project Manager, McLaren Vale Visitor Centre. His secondment was set up by Mr Gleeson to run from 30 September 1996 until 30 September 1997, and at the end of the secondment he will return to SATC or can enter into a contract with the centre. I am advised Mr Gleeson organised for Mr Evans to be seconded to work on special projects. I am advised Mr Rossiter was reassigned by Mr Gleeson to the position of Manager, Advertising. These matters were handled by Mr Gleeson, independent of me.

2. I have been advised that the four fishermen concerned each received a negotiated *ex gratia* payment of $6 000 each. I have further been advised that there was no admission of liability from the Crown.

3. The right of access is defined and exists. The current lease agreement between the Minister for Transport and Mbfi Resort Pty Ltd places obligations upon the lessee with respect to facilities which have to be made available to the public.

The marina master agreement includes a definition of 'facilities for public use':

Facilities for public use:

those facilities within the marina which must be maintained by the lessee and made available to the public at times and under conditions (including a scale of fees or charges) determined by the lessee with the prior written approval of the lessor and include (but not limited to): toilets, car and trailer parking, boat ramp, berths and moorings, pump-out facilities, refuelling and service points, etc.

The lessee will at all times during the period from the date of practical completion until the expiration or earlier termination of this lease maintain and operate the facilities for public use in a safe and responsible manner to the reasonable satisfaction of the lessor and make the same available for use by the public.

While the lease has been agreed and signed between the parties the negotiations on the detail are yet to be undertaken. Until the planning and development of the marina is further advanced and proposals for operation are considered by the Minister for Transport, it is not possible to be definitive about what will be the operating conditions of the ramp.

The details of accessibility are yet to be finally determined but in any event are subject to the approval of the lessor. However, it is reasonable for the public to expect that there will be a charge for the use of the boat ramp and there may be some restrictions on access. These restrictions may not be absolute, but outside of particular operating hours access elsewhere to the ramp may be controlled (for example, some ramps require a coin or token to operate boom gates, if a token is used it would have to be purchased in advance).

The Democrats note that, on the evidence before us, clearly the Minister and former Tourism Commission chief executive Michael Gleeson have different views on the circumstances surrounding Gleeson's departure. Should this matter come before a select committee, these two people are likely to give conflicting evidence about what transpired.

We do have the statutory declaration of Tourism Commission Chairman, John Lamb, in which he makes it quite clear that a decision to appoint Ms Anne Ruston to the position of General Manager of the Wine and Tourism Council of South Australia was a unanimous decision of the selection committee.

Should a select committee choose to investigate this matter further, not only would we have a clear conflict of evidence but also the most significant witness, Mr Gleeson, would apparently be unavailable, as he is living in Italy. Were a committee established in this case, it is unclear where it would get to, particularly with the absence of the chief witness, Mr Gleeson. The committee would probably turn into a fishing expedition, and it is unlikely to find anything not now on the record.

The Government has clarified for us the cost of the termination of Mr Gleeson's appointment. Rumours have been circulating that the costs could have been as high as $500 000. Evidence we now have on the public record is that the cost to the public purse is $115 000.

We have formed the view that it is likely that Mr Ingerson has expressed a view in terms of suitability of particular people in the Tourism Commission and that it is likely that he has been somewhat heavy handed but, when one looks at the behaviour of other Liberal Ministers, he certainly would not be alone in that regard. One only need look at the confrontation between the former Racing Minister (Hon. John Oswald) and the former TAB chief, Bill Cousins, and the actions of any number of other Ministers in changing appointees to boards and committees to realise that this is a Liberal Party trait.

This Government has probably been the most interventionist in the public sector that this State has seen, and for that it stands condemned. However, we again reiterate the point that Mr Ingerson does not appear to be exceptional in this regard. If we were to establish a select committee on the basis of the evidence before us, we would most likely need to establish one into many Government Ministers.

It was certainly within the Minister's power to remove the CEO. However, the Minister deserves to be criticised for removing a CEO who clearly enjoyed the confidence of the board and who appears to have been successful in carrying out his duties, but who apparently came into conflict with the Minister. While the Minister may have made a significant mistake, he did not contravene the Act in his removal of the CEO.

Regarding the Wirrina development, figures released in the Parliament indicate that tourism funds have been used primarily for the benefit of what will be a private housing development. I find it quite outrageous that significant public money (in this case, Tourism Department money) has been used for what appears to be a significant private benefit. If we take the figures provided, the Government, through its tourism infrastructure fund, is spending $4.4 million to extend the water main from Normanville to the Wirrina site. It will also spend $950 000 on water treatment works for the site. Previously, the resort was totally self-sufficient in these areas.

The Government will also spend $1 million on the reconstruction of a public road from South Road to the marina and $8.5 million on the marina itself. The major cause of these additional demands is not the expansion of the tourism component but the addition of a significant residential component. To make matters worse, the residential component clearly was contrary to the Mount Lofty Ranges development plan.

That the Government should provide a significant subsidy for this development is in our view very wrong. To dress it up as a tourism development is a gross distortion. It appears that not only the Minister but also the Cabinet approved this expenditure.

One of the original arguments for the Wirrina marina development was to provide short-term berths for people sailing from point to point along our coastline. The marina would provide a useful stopover for such travellers. The fact that $9.5 million of public money should be spent to provide just 30 berths for short-term public use seems very much to be contrary to the Government's policy of user pays, and it certainly will not be average South Australians who will use this marina.

In relation to the Glenelg to Kangaroo Island ferry facilities, we certainly believed that the Government had

spent more money than the Minister indicated in his answers. This matter we will pursue at another time.

Finally, do we believe that the Minister has behaved appropriately and sensibly? The answer is: 'No.' Do we believe that a select committee will establish any new facts which will be of public benefit? The answer also is: 'No.' For that reason, the Democrats will not support the establishment of a select committee.

The Hon. R.R. ROBERTS: I thank members for their contribution. Once again, I am disappointed that the Democrats have chosen not to support this motion. I do not want to recount all the reasons that have been advanced for the necessity of establishing this select committee, but I do want to make a couple of observations and compare this motion for a select committee with the motion in respect of the alleged impropriety of the Minister for Finance regarding the sale of the property at Gouldana. If one compares those two motions, one sees that it is obvious that similar circumstances are involved. This select committee was set up to give the powerless an opportunity to have their case heard.

Regarding the motion relating to the affairs of the Hon. Dale Baker, which was promoted I might add by the Australian Democrats, we were convinced that the establishment of a select committee would provide an opportunity for members of the public to come forward and give evidence under the protection of parliamentary privilege in the same way as those matters which involved the former Minister for Tourism (Hon. Graham Ingerson).

On a number of occasions, the Hon. Graham Ingerson used parliamentary privilege to attack members of the Health Commission and people in Government employment who clearly were intimidated. As I pointed out in my speech, those people were not in the same position and had indicated to the shadow Minister for Tourism on several occasions that they were prepared to give evidence but that obviously they were concerned for their jobs.

We have on record in *Hansard* the actions of the Minister for Tourism during this fiasco. He was saved from a motion of no confidence in the other place only by the simple fact that the Government has 36 members in another place whereas the Labor Party has only 11. If ever a man was caught acting with impropriety, it was he on that occasion, but the numbers reflected the result.

So, we are attempting to give the little people an opportunity to come along with the same protection from retribution. We felt that this motion was worthwhile. We have been given assurances by a number of people, who obviously must remain nameless, especially as the Democrats have now indicated they will not support this motion, that they were prepared to give evidence but that they would not do so without the protection of a select committee.

The Democrats have decided, based on answers they have received to a number of questions from the Minister who is the subject of this motion, not to support the establishment of a select committee. Those answers could quite easily have been solicited during the sittings of the select committee if it had been set up.

It is late in the day and we have a fairly heavy legislative program to get through. Also, one understands the numbers in this place. I indicate the Opposition's disappointment, but it will proceed with the motion and vote accordingly.

The Council divided on the motion:

AYES (8)

Crothers, T.	Holloway, P.
Levy, J. A. W.	Nocella, P.
Pickles, C. A.	Roberts, R. R. (teller)
Roberts, T. G.	Weatherill, G.

NOES (11)

Davis, L. H.	Elliott, M. J.
Griffin, K. T.	Irwin, J. C.
Kanck, S. M.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I. (teller)
Pfitzner, B. S. L.	Redford, A. J.
Schaefer, C. V.	

PAIRS

Cameron, T. G.	Stefani, J. F.

Majority of 3 for the Noes.

Motion thus negatived.

WATER SUPPLY, NORTHERN

Adjourned debate on motion of Hon. T.G. Roberts:

That the issues associated with the protection, availability and use of surface and subterranean water in the northern regions of the State be investigated by the Environment, Resources and Development Committee.

(Continued from 6 November. Page 345.)

The Hon. CAROLINE SCHAEFER: The Hon. Terry Roberts has moved that issues associated with the protection, availability and use of surface water and subterranean water in the northern regions of the State be investigated by the Environment, Resources and Development Committee and, since I am on that committee, together with the Hon. Mr Roberts and the Hon. Mike Elliott, I thought that I should comment on that reference. I believe it largely refers to the Great Artesian Basin, since surface water is spasmodic and, due to climate, not easily harvested in that region. The Great Artesian Basin was discovered in 1878 and by 1915 there were 1 500 bores throughout the region. I understand there are now 3 000 bores, although recent bore capping initiatives, particularly in south-west Queensland, may have reduced that number.

The Great Artesian Basin, which covers approximately 1.7 million square kilometres underground, was formed some 100 to 250 million years ago and is quite unique in its formation. The groundwater flows in a westerly south-westerly direction through permeable sandstone aquifers which are sandwiched between impervious layers of rock. The basin is recharged by tropical northern rainfall and stores a huge, almost unfathomable amount of approximately 8 700 million megalitres. To put that into context, one megalitre is about a half the volume of an Olympic size swimming pool. Approximately 425 megalitres find their way into South Australia each day and the water reaches the surface via mound springs and bores, at temperatures between 30 degrees centigrade and 100 degrees centigrade.

There has been considerable anxiety expressed in recent years about the inappropriate use of this vast supply of water and, in particular, the water used by the Olympic Dam project and the township of Roxby Downs. It is of interest to me, therefore, to find that while 132 megalitres are used for stock water and domestic purposes per day, only 37 megalitres are used in the mining industry, made up of 22 megalitres in the Cooper Basin and 15 megalitres used by Olympic Dam operations. Even after the Olympic Dam expansion, it is estimated that 42 megalitres per day will be used by the entire mining industry.

The Hon. Sandra Kanck: That is only for the next five years.

The Hon. CAROLINE SCHAEFER: No, it is for the term of the agreement. In other words, less water is, and will be, used than flows into South Australia on a daily basis. More water evaporates via vertical leakage, at 200 megalitres per day, and natural seepage at mound springs at 65 to 70 megalitres per day, than mankind ever has or is ever likely to use. However, indiscriminate use of flowing bores has for some time been a matter of concern. Pastoralists as well as Government authorities have recognised that these bores alter the local environment. They encourage feral livestock and alter the nearby flora and fauna and encourage localised salinity. I have seen at first hand the improvements being made in south-west Queensland by capping some bores and properly equipping others. In South Australia, the Department of Mines and Energy has been rehabilitating bores in the north of the State since 1977. This saves approximately 100 megalitres of water per day on what was being wasted prior to the rehabilitation of those bores.

As a member of the Environment, Resources and Development Committee, I am interested by the reference of the Hon. Terry Roberts, because it refers to protection, availability and use of surface water in the north of the State as well as subterranean water. Indeed, we are presently witnessing the phenomenon of our inland sea filling up. We will see a huge influx of fish and bird life into Lake Eyre, only to witness them dying in their millions later in the year as those waters evaporate. It would certainly be tampering with nature to attempt to change that, and there is no economic way we could do so, anyway. However, in this driest State of the driest continent on Earth, what a magnificent dream: the thought of a permanent, inexhaustible water supply throughout the north.

I was fascinated by a recent report that we are experimenting with pumping excess surface water back into the aquifer in the Adelaide area. Perhaps one day we will be able to witness some of those occasional floodwaters being harvested and retained in some way. I believe that our subterranean water is very carefully managed at the moment. A working group of the relevant agencies from South Australia, Queensland, New South Wales and the Northern Territory meet on a regular basis to coordinate basin-wide monitoring and research, and the South Australian Arid Areas Water Resources Committee advises the Minister for the Environment and Natural Resources on the management of the basin and other related issues. In fact, I think it is this group, or these two groups and their interstate counterparts, that were instrumental in halting the push for cotton production in the Cooper Basin.

More recently, a Great Artesian Basin Consultative Committee, which represents all stakeholders, is being established to achieve coordinated management and long-term sustainability of this resource. While I do not necessarily disagree with the Hon. Terry Roberts—and this reference would certainly be interesting—he has said himself that our committee has a long list of pending inquiries, and I would therefore wonder whether our committee would find anything which is not already extremely well documented.

The Hon. M.J. ELLIOTT: Recognising that we may not return to this for some months, I would like the opportunity to make a few comments and I will seek leave to conclude my remarks later. I support the thrust of the motion moved by the Hon. Terry Roberts. I have raised already in this place questions of concern about the Great Artesian Basin, and there has been some misinformation by certain vested interests—and I think deliberate misinformation—about the capacity of the artesian basin to supply water in the quantities that, particularly, Roxby Downs is about to draw them. This is a debate not about whether or not Roxby Downs mine should exist and whether or not it should use artesian water, but about how much it should use; that is a question worth addressing.

It is very misleading to talk about how much water is in the basin and how much is drawn by the Roxby Downs company, then comparing it with what other people are drawing. One must look at not only the question of how much water is being used but also from where it is being drawn. The Roxby miners are drawing the water from the very bottom south-western corner of the basin, farthest from where the recharge occurs. The recharge is occurring predominantly in Queensland and New South Wales. In fact, I understand the water takes approximately a million years to travel from where the rain first falls to where it is being drawn down. Based on data I have seen put out by Western Mining, it is not just a question of how much water comes over the border each day and the fact that only 10 per cent is being used by Western Mining, so that therefore there is no problem, as compared with pastoralists who are using, I think, twice as much as they were using. It is very deceptive because the pastoralists are using it across the whole basin and, as a result, the draw down is relatively even across the whole basin.

Roxby Downs miners are drawing from two locations quite near to each other. Originally, there was bore field A which had approvals to draw more water than the Roxby Downs operators drew from it, and it was expected that they would draw the water over a longer period of time. They found that the draw down happened much more rapidly than they expected and the consequence has been the extinction of several mound springs. These mound springs have not only environmental significance, but also unique fauna attached to each of them. Some of them are also of significance to the local Aboriginal communities as well. It was anticipated—and I must say not accepted by some people in this community—that one or two of the mound springs may have been extinguished. In fact, I understand many more were affected and that is one of the reasons the move to bore field B occurred when it did. They have moved further into the artesian basin to draw down much larger quantities of water than currently being drawn out of bore field A.

They got it wrong with bore field A and, unfortunately, I think they probably have it wrong with bore field B as well. It is quite likely—and this is the sort of matter that the committee should look at—that, because it is a localised draw down farthest from where the recharge actually occurs, there will be significant local effects because they will be drawing it from that area far more rapidly than it can arrive. I think it is quite likely we will see more mound springs, which exist between the former bore field A site and bore field B, also extinguished as a consequence.

The Government has always bent over backwards a little too hard to please Western Mining. As I said, I am not having a debate with the Government about Roxby Downs itself at this stage, but whether or not you support Roxby Downs does not justify inadequate work being done on related issues. I certainly believe that has been the case. By looking at this issue, the committee may prove me to be wrong or, in fact,

justify me and, more importantly, the people who have made the claims to me.

It is also important to note that not only are there potential environmental impacts and impacts on Aboriginal communities, but also there could be other economic impacts. I am aware that the joint venturers have already purchased at least one, if not more, pastoral properties in the area, recognising that the draw down was likely to have an impact on those areas. It appears to be something that they, as pastoral property owners, are prepared to tolerate, but the consequences of having land that is nominally pastoral land but not adequately cared for could be a significant risk.

More importantly, I am aware that other mining operations are proposed for central South Australia, including a coal mine which might also have an iron ore mine associated with it and even a steelworks which will also want water. Even should it prove to be the case that the artesian basin could have supplied the quantity required by Roxby Downs, how much more water can be drawn out without having an impact? What if the amount that Roxby is drawing is as much as the basin can bear and we have given it all to one company, and denied it to other potential operators? That would turn out to be not only an environmental mistake and a mistake in terms of Aboriginal heritage, but also an economic mistake.

Some important questions need to be asked for the long-term benefit of this State in a range of ways, and need to be more thoroughly addressed than has been the case thus far. I might have a point of difference with the Hon. Terry Roberts—and I am raising this as a possibility at this stage and will take it further when the debate resumes—as to whether or not we should not look at the groundwater resources of the whole State. The Hon. Terry Roberts, coming from the South-East, as indeed do several other members of this place—the Hon. Robert Lucas, the Hon. Angus Redford and myself—is aware of the significance of the underwater resources of the South-East. In fact, they are absolutely basic to the future of the South-East, and a number of real issues need to be addressed there. There have been proposals in the past for a coal mine near Kingston which had the potential for dramatic impacts on many farmers. There are questions of contamination of the groundwater industrially. Copper chrome arsenate is one example I have raised in this place on a number of occasions. Also, nitrates arise from certain farming operations and would poison the water for farming as well. There are also issues of salinity and questions of quantity and general access.

Some of these issues were raised by the Hon. Angus Redford when debating the Water Resources Bill, a Bill of which I was critical. I noted that it was designed to tackle issues surrounding the Murray River and was then, incidentally, being asked to handle all other water resources in the State. We may have to look at whether or not we do treat the underground water resources in exactly the same way as surface waters.

There are other important underground water resources. Eyre Peninsula has a couple of small basins absolutely crucial to the future of some of the townships there. Tumby Bay has had real problems for some years in terms of its water supply, as has Port Lincoln. There are other pocket resources through the Mid North, some of which I understand are suffering significant draw down at this time. On that basis, if we are to look at underground water reserves in one place, in doing that the committee will develop some understanding of the way underground water reserves work, and it would be efficient for the committee to say, 'While we are looking at this, we can look at some others.' The next term of reference of the committee is aquaculture, and we will be travelling over to Eyre Peninsula to look at aquaculture there, and it would be ideal while there to take evidence at the same time perhaps in relation to ground water reserves as well. I simply pose that as a possibility and suggest that other members may like to think about it over the break. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

DENTISTS (CLINICAL DENTAL TECHNICIANS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 December. Page 742.)

The Hon. R.R. ROBERTS: I wish to make a short contribution to this debate. I point out to the Council that this Bill was introduced by my colleague the Hon. Paul Holloway on 23 October 1996. The Hon. Sandra Kanck supported the measure on 5 December, and since that time we have had no response from the Minister for Health and we are still waiting, as I understand, for the Minister for Health to take it to his Party room. Members at this time of the year always get somewhat teasy, and this is another of those occasions.

For many weeks we have watched the Government's legislative program in the Lower House, and there is really nothing coming through. In this last week, we have had a flood of Bills coming into the Chamber and we are asked to deal with them straightaway. However, here we have a matter that has been on the Notice Paper since 23 October, yet the Government has not even had the courtesy to take the matter to its Party room. I understand that my colleague the Hon. Paul Holloway is exceptionally upset about this, especially as we will be sitting here tonight and starting early the next couple of days to deal with the tobacco Bill and other health issues, but here we have a Bill dealing with dental technicians, a situation which is health related, and the Government has not responded.

We are extremely disappointed and actually offended that the Government ignores a private member's Bill on a matter of some importance, and then wants the Council to comply in the last weeks with its legislative program and that it ought to be done on the basis of health grounds. We will be supporting an adjournment of this motion. My colleague was expecting a vote today. However, I do register the protest on behalf of the Opposition and my colleague the Hon. Paul Holloway in particular.

The Hon. DIANA LAIDLAW (Minister for Transport): I want to make a few statements on the record before seeking leave to conclude. I regret that the Hon. Paul Holloway may be exceptionally upset. It was not my understanding when I spoke to him earlier that that was the case. He seemed to appreciate from earlier discussions with the Minister for Health that the matter was to go for discussion before the Party room this week, but the Minister for Health is overseas on Government business and was not there to address the issue. That is the reason why I am not in a position, despite earlier understandings, to respond to this Bill today.

The Hon. Mr Holloway would also acknowledge that earlier in this session he indicated there would be other matters the Government may wish to take into account in

terms of hygiene and information before a dental committee advisory panel which may have reported that the Government would want to consider. Certainly, the Hon. Mr Holloway indicated he would wish to consider those matters also. That committee has taken longer to report than any of us anticipated. The Government has not meant to offend. It has not sought to upset anyone, particularly the Hon. Mr Holloway. I nevertheless appreciate his understanding of the circumstances in terms of the absence overseas this week of the Minister for Health. It will be dealt with by the Government on the first occasion when we return, and that undertaking is given by me and the Minister for Health. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

MIMILI SCHOOL

Adjourned debate on motion of Hon. R.R. Roberts:

That the Legislative Council—

1. Censures the Minister for Education and Children's Services for providing an asbestos classroom to Mimili School against the express wishes of the Mimili Community Council Incorporated, the Nganampa Health Council Incorporated and the Anangu Pitjantjatjara Services Aboriginal Corporation.

2. Calls on the Minister to abide by the Anangu Pitjantjatjara Services Aboriginal Corporation order issued on 4 October 1996 to remove the building from the Pitjantjatjara Lands and make the site clean; and

3. Calls on the Minister to provide appropriate classrooms to children at the Mimili School following consultation with the appropriate school, community and local governing authorities.

(Continued from 13 February. Page 935.)

The Hon. M.J. ELLIOTT: I rise to support the motion and will speak briefly. I first received contact about this issue last year when people at Mimili told me that a school classroom had arrived, and they were concerned about the fact that it contained asbestos sheets, and the implications of that, and expressed concern that should it be vandalised, there would be broken asbestos around the place. I understood the concern of the people and said that, knowing the Minister for Education and Children's Services as I do, I do not think I have seen him change his mind on anything. What he will do is stick to his digs and insist—

The Hon. R.I. Lucas: Only when he is right!

The Hon. M.J. ELLIOTT: Well, he has never said he is wrong. That is the other bit of it. In fact, I thank the Minister for intervening, because he said, 'Only when he is right', and I did say to these people that he insists he is right all the time. It is a fairly potent combination. I said he would get on his digs and there was no way known he would remove the classroom and that he would threaten that if he did remove it they would not get one back. That is precisely the path—

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: If you watch the Minister for any length of time you do not need a crystal ball. It was predictable that it would follow this path. I am not saying that it was right but, unfortunately, highly predictable. The more I look at this the more I am reminded of an incident some years ago that involved a previous Minister, the Hon. John Cornwall and a health service in Port Augusta. It was an issue in which I was involved for probably some two years and it followed a somewhat similar course.

The Minister was not fully informed of everything that was happening at the start. I do not believe that the Minister personally made the decision to send a classroom to Mimili. He may have approved the transfer of a building but would not have known what it was made of. That decision would have been made by an officer. Decisions about a health service in Port Augusta were made by an officer, who made sure he covered his own tracks well and had the direct ear of the Minister, which put him at a distinct advantage over certain members of the Aboriginal community in Port Augusta who did not have the direct ear of the Minister. Just as I watched this officer in the Health Commission make sure he wangled things his way, I suspect that something similar may have been happening up at Mimili with an officer up there.

I will not go through the whole exposition again as the Hon. Ron Roberts has done a lot of that. However, I will read a letter. I am not sure whether the Minister read the letter into *Hansard*, but I will read it anyway. The letter is addressed: 'To whom it may concern'. It was written at the PYEC annual general meeting held at Mimili on 25 February 1997 and states:

> The following members of the Mimili Community Council have agreed that the Demac building brought into Mimili can be repaired on site. The building does not have to be removed from where it is. We are satisfied that it can be repaired in full safety. Permission is given for SA Services builders to undertake immediate repairs.

There is then a series of signatures. Talking to people at Mimili I am told that certain members of the Mimili community were invited to this meeting and others were not. There was no understanding given beforehand that this issue would be discussed and on the spot they were told to sign this letter or the school would miss out. I heard exactly the same sort of threats being made in Port Augusta in relation to the health services up there. It is worth noting that that letter is in the handwriting of a senior Education Department officer who kindly helped these people draft this letter.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: It may indeed be the same one. I have another letter from the Mimili Community Inc. addressed to Ruth Morley of Pit. Legal of 7 March 1996 in regard to the asbestos building at Mimili school, which letter states:

> Dear Ruth,
>
> We are writing to you with much concern about recent events at the PYEC annual general meeting. Today at a Mimili council meeting we discussed the letter we signed, attached, that was drafted by Geoff Iverson. We are concerned that we made a decision to sign this letter without fully understanding all the issues and that we were misinformed about the planning process. We were told that if we did not agree to have the building renovated on site it would be taken away so we thought we had no choice. We were also told that only if we signed the letter would the building be fixed up. Today we discussed the various planning processes and we wish to confirm our desire for the proper process to proceed through the Development Assessment Commission. We understand that this is the proper process.

The Hon. R.I. Lucas: Who wrote that one?

The Hon. M.J. ELLIOTT: Let me finish. It continues:

> We would also like to clarify that we are happy for you to handle all further inquiries regarding this matter and also would like you to write to whoever necessary to explain the situation.

The signatures match exactly the signatures of those who signed the earlier letter. You end up with a case of 'You show me your letter and I'll show you mine.' They are even signed by the same people. Again, I saw this situation played out in Port Augusta. It is plain to me that a mistake was made sending a building with asbestos sheet to the Mimili area and that it had not been through all the due planning processes, taking into account the legal rights that the community itself had. That could be put down as an honest mistake, perhaps,

but clearly it should not have happened. When I say that it should not have happened, it is worth taking note of documents put out by SACON in relation to asbestos. It is quite plain. I quote from Personnel Submanual Instruction No. PNC13 re: Working With Asbestos. I shall pick just a few parts of this document—I will not read the whole lot. Under No. 2: General Principles it makes it quite plain:

> Wherever practicable, substitutes should be found for asbestos products. Such substitutes for asbestos products should be thoroughly evaluated before use to ensure that they do not constitute a health hazard. Ultimately all asbestos—

I stress 'all asbestos'—

> products should be eliminated.

At the next dot point we see:

> Asbestos which has been incorporated into a stable matrix can be found in many working environments. Provided the matrix remains stable and no airborne dust is produced it presents no health risk.

The point is that the matrix must remain stable. Later in the same document there is a specific instruction in relation to Demac units—clause 6(c). Under Demac Units Refurbishment/Repair Program it states:

> SACON undertakes a considerable amount of work on Demac units on behalf of various clients, particularly the Education Department. In performing this work the following conditions are to apply:
>
> 1. Any panel containing asbestos which becomes damaged will be replaced by a panel which does not contain asbestos. A damaged asbestos-containing panel is defined as 'any panel containing holes or penetrations of greater than 25mm in diameter, which are not to be reused for service. . . any seriously cracked or broken panel'.

An important point is that they are aiming to progressively replace even the so-called stable matrix product with product that does not contain asbestos. It certainly makes plain that if it has been damaged in any way the whole sheet will be replaced at that time. It is quite plain that the general aim anywhere in the State is to replace asbestos containing panels with non-asbestos product. I believe that it was a mistake sending those buildings up there in the first place without them being refurbished here in Adelaide. Clearly, it would have been cheaper in the long run to replace sheets on site, because any form of vandalism—and it happens at schools all over the State—would require sending a person up there specifically to replace asbestos sheets. It would have been sensible to have done that here.

In relation to the question of whether or not the building should be removed from the site and refurbished elsewhere, I understand that there is an asbestos replacement person—a person who is prepared to carry out the work—who is actually arguing that he can do the work cheaper at Marla than doing it on site. I do not know the reasons for that, but I understand that that is the case. There is no suggestion that the building needs to come back to Adelaide.

Finally, the more important point is that, rather than continuing a long slanging match, I would hope that lessons have been learnt in relation to not just the Education Department but any department working in the Aboriginal lands. They have an obligation and a legal requirement to get certain permissions before taking buildings on site. In any case, for any buildings being taken to remote sites on any lands—not just Aboriginal lands—it would be sensible to reclad them now so that any future buildings going outside of Adelaide will be reclad before the building leaves. At the end of the day I think that the Government would find that that would be far cheaper—

The Hon. R.I. Lucas: What was that? Anywhere outside of Adelaide or only—

The Hon. M.J. ELLIOTT: I think any significant distance from Adelaide. If we are to send anything north or west of Port Augusta, I think it would be sensible to ensure that any further work does not have to be done by a person qualified in working with asbestos. I was tempted to fine tune the wording of the motion, but I think the important sentiments are there. The debate makes quite plain the reasons why there is support for the motion, which I support.

The Hon. R.R. ROBERTS: I am delighted to end this long-running saga. I appreciate the indication of support by the Hon. Mr Elliott, but I do not do so with glee: it is more with sorrow that I thank the Hon. Mr Elliott for his support of this motion. This matter came before the Parliament as far back as 4 October last year, when it was pointed out that this building had landed on the Aboriginal lands against the Pitjantjatjara Land Rights Act requirements. It arrived on the site without authorisation, with stickers saying that there were asbestos products in it—a dangerous proposition.

Discussions then took place with officials of the AP Services Council, and retrospective authorisations were given because the building was on the site. Protests were made and questions asked in this Council about the process and the dangers involved. The Hon. Mr Elliott is correct: it should have been accepted from day one that a mistake had been made and an attempt should have been made to sit down and work it out with the people who had jurisdiction—the Pitjantjatjara people, the AP Services people and the Mimili Council people. As stated by the Opposition from day one, they were the people with the authorisation: it was their jurisdiction. We pointed out time and again that they were the people who had the jurisdiction.

After the first couple of contributions, the Minister continually referred to his good friend Geoff Iverson from the PYEC committee. There were repeated attempts, both on the floor of this Council and in other places, to point out that this was all about the question of jurisdiction, and that if that track was followed the problem could be solved. But what have we seen—continual argy-bargy and twisting and turning, relying on rhetoric in this Council, defaming people and abusing the trust and confidence that the Pitjantjatjara people had in this Council. It was all about protecting the Minister and not about protecting the children and schoolteachers at Mimili.

There was no respect for the culture of the Anangu Pitjantjatjara people and the processes that they go through, and as a result we now have a lack of confidence by the Pitjantjatjara people in this process. They feel that they have been offended and that their culture has been ignored—and they have a perfect right to feel that, given the record of this Parliament. We all stand condemned in this matter. We, as a Parliament, have failed the Aboriginal communities and those kids and teachers in the Pitjantjatjara lands.

I pointed out very early in the piece that if a situation such as this were to occur in the leafy suburbs of Burnside or Kensington Gardens there would be an immediate response and, under the spotlights of the local media, action would be immediate. We saw that immediate action in another school—not Burnside—when the classrooms were cleared and the children were put on the oval. They were not only cleared from that site but they were also relocated until the refurbishment of the school could occur.

The Minister, who was going to tear us all apart last December when he came back and tell us what had happened,

keeps saying, 'They had to get off the site because the girls had to use the toilet.' Well, I would be surprised if the boys did not have to do that also. Then, a very concerned Mimili council—the people responsible for administration who were given authority by the AP Services Council—recognised the danger. Their opinion was backed up by the Nganampa Health Council, and the Health Commission backed them all the way. I have here a letter from the Health Commission with respect to the way in which this ought to have happened.

They have been backed up right the way through in their assertion that this building is a danger. We then saw the people removed. Geoff Iverson, this unqualified asbestos expert on whom the Minister relied—and we have raised that in this Chamber—went up there and told those people to go back into the school grounds, and they did so. They did not enter this building, but they were using other facilities which were in the same area.

The Minister on that day was advised that action was to take place. I remember the letter well. It was the 'Dear Rob' letter—not 'Dear Minister' but 'Dear Rob': my old mate, Rob. So we had sycophantic bureaucrats taking action which this Minister knew about. He cannot deny that he did not know because he is on the *Hansard* record on the day that this occurred saying that he had received this letter and that these people—the PYEC—were in charge up there.

I tried to point out to him that that was not the process, but did the Minister go to the Act? No, he tried to bluff it out. In an endeavour to settle the matter of jurisdiction, on 6 November I asked the Minister for Transport, representing the Minister for Aboriginal Affairs, who maintained the jurisdiction. Like nuns, they gathered together for strength. The Minister for Transport decided that she would get into the act and have a bit of fun, saying, 'You are too frightened to take on the Minister for Education. Why do you want to go to the Minister for Aboriginal Affairs?' I should have thought that was obvious—the Minister for Aboriginal Affairs ought to have some interest in it.

I point out that to this day we still have not received an answer about a health issue concerning Australians living in the Pitjantjatjara lands. That question was asked on 6 November and no answer has been received. After being forced to move this motion—more in sorrow—Parliament rose in November, and the Minister was going to go check everything. The Opposition took the opportunity, under the Freedom of Information Act, to get the documents that were being held by the department. We found that very shortly after the debates in this Council it was clearly established by everyone, including Ian Benjamin—there was a letter to Ian Benjamin from Geoff Iverson stating this, and we now all accept it—that the AP Services Council was in control.

One would have thought that from that point on it would all be down hill. I submit that if we had had a reasonable approach to this matter it could have been sorted out back in October. A little respect should have been given to the Anangu Pitjantjatjara people, their structures and culture: they had a right to a bit of respect from a Minister of the Crown who is in charge of education. Instead, he tried to protect his own reputation and used this issue like a private school debate—some play thing on which we could have a debate and with which we could have a little fun. In fact, we were dealing with South Australian children and schoolteachers whom he has a personal responsibility to look after because of his duty as Minister. But, no, it became a debating ploy: it was not about people's health.

The Minister has disgraced himself and this Government. He should have gone to those people like any responsible consultant would have done. Instead of swanning around in his white car, the Minister could have taken the trip up to Mimili, as any responsible consultant would have done, and sat down with the AP Services Council, talked this matter through with them and shown them a little respect. I am sure we could have sorted out this matter some time ago. Dare I say that we could have had an apology from the Minister saying, 'Look, I was wrong about this.'

The Hon. R.I. Lucas: No way!

The Hon. R.R. ROBERTS: 'No way,' he says; he will not apologise, whether he is right or wrong. There is no way that he will apologise. The Minister should have gone up and said, 'I am sorry about this. There has been a monumental stuff up, once again. How can we sit down and work together to resolve this issue?' If the Minister had gone up there and shown some respect to these people, I am sure they would have sat down with him and come up with an action plan. If we had an asbestos expert—not even the Minister—go to the Pitjantjatjara lands and sit down with the council and the people and work out a plan about how the material would be removed, we could have got somewhere.

Quite correctly, the Hon. Mr Elliott pointed out that as far back as November last year there was a letter from the AP Services saying that they could take the building off site to Marla, where there were more services, where they would not have to pay high rent and with which there would not be travelling costs, and they could fix the job for about $8 000.

The Hon. K.T. Griffin: Get on with it.

The Hon. R.R. ROBERTS: For how long have you been running the show? You squeak when you are 'squoken' to! If that had happened we could have had a result.

Members interjecting:

The Hon. R.R. ROBERTS: Here we go again, the little private school clique. They think it is funny. When the problem is out at Hillcrest they are out there like rockets, but when it is Aboriginal kids living 1 200 kilometres away, they laugh and scorn.

Members interjecting:

The Hon. R.R. ROBERTS: You are a shameful Minister and you ought to be ashamed of yourself. You are a failure and a disgrace to the people whom you are supposed to represent. We have gone through this issue step by step and, instead of that sensible plan and some respect being shown—it is not being shown here even today at the eleventh hour—I am no longer confident that this motion will make one iota of difference.

The Hon. R.I. Lucas: It won't.

The Hon. R.R. ROBERTS: There you go. The Minister says that, despite his being proved conclusively wrong, it will not make one iota of difference. He is concerned only about his own reputation. Well, his reputation has been sullied not only here but we have seen his attitude to school teachers not only at Mimili but throughout South Australia. It was not until two years later that his disgraceful handling of that issue was taken over, more as a publicity exercise and a build-up for Mr Olsen. However, he had to suffer the shame of having the matter taken out of his hands. Clearly, as soon as we got cooperation and respect back into the system, the problem was solved. It could be well solved, here but I am not confident, because this Minister is not man enough or mature enough to apologise and go to the Pitjantjatjara people and say, 'Let us sort this out and see whether we can fix the

matter,' and give an assurance that in future when movements of this type occur due process will be respected.

Other issues are involved in this matter. It has been very clear since 1986 that these buildings were inappropriate. A damning aspect of the situation is the health aspect and the evidence that is before us to say that this building ought to be removed, reclad and put back. I am certain that we could have had a different result and everyone would have been housed up there. We could have had decent school housing for these people. Instead of teaching kids in a caravan, they would have had decent buildings. But what has happened? Because of the recalcitrance of the Minister, his pure pig-headedness and his refusal to apologise, and given that the Nganampa health people, the Health Commission, the Mimili council and AP Services have all agreed that the building ought to be taken off the site at a cost of $8 000—and forgetting about the well-being and good health of these children—for the sake of goodwill this ought to be done.

I now refer to a letter of 3 March 1997 to Mr Trevor Smith, Development Assessment Commission, as follows:

> Dear Sir,
>
> Proposed admin, resource and classroom building for Mimili school—AP lands
>
> Thank you for the opportunity to comment on this proposed development and please note that the proponent has already undertaken the development described in this application in that the school building has been on site for several months.

We know the story of that. It continues:

> The presence of asbestos cement sheeting in the building presents a small but actual health risk to members of this remote Aboriginal community whose standard of health is already compromised. Asbestos cement sheeting is not sufficiently robust to withstand 'normal wear and tear' in such locations, and in this case the damage already inflicted by vandals has not only increased that health risk but has generated significant community concern.

When we had community concern at Hillcrest, the Minister acted, but when we have community concern at Mimili he does not act. The letter continues:

> Reportedly, local children are exposing themselves to asbestos fibres by playing with, breaking apart and scattering around the community asbestos cement sheet debris from the vandalised building. The current state of the building is such that further vandalism is likely, with the resultant continuing health risk. This office therefore could only support the proposal if the Development Assessment Commission included the following conditions in its approval:
>
> 1. As a matter of priority the vandalised building (a) be made safe; and (b) be transported off AP lands for replacement of all asbestos cement products.
> 2. The necessary community council consultation and Anangu Pitjantjatjara approval processes be completed prior to the building being returned to Mimili.
> 3. SAHC approval be obtained to vary the waste control system associated with the building.

It concludes:

> Once again, thank you for the opportunity to comment on this proposal.

All the way through all the experts and all the evidence show that there has been a mistake, and we ought to accept that. The Minister has failed, as I said, because he has failed to apologise or to supply a proper plan. He ought to guarantee that in future this will not happen. Given that starting point and the fact that the Minister should go up and talk to these people, we can get a resolution. We have seen failure after failure. We have seen a failure to students and teachers. The Minister failed to consult and respect the Anangu Pitjantjatjara people. The Government has shown no respect for legislation in this place in that it has completely ignored its responsibilities under the Anangu Pitjantjatjara Land Rights Act. The Minister has failed the Government and he has failed this Council. He has failed this ministry but, saddest of all, he has failed himself.

Therefore, it is with some sadness that I ask all members to support my motion. Again, I express my earnest desire that the Minister stop this farce and his childishness and that he come up with a proper plan to provide proper buildings and facilities for those Australians living on the Pitjantjatjara lands. He must desist from trying to circumvent the process. I ask him to desist from threatening, through his intermediaries, people in the Pitjantjatjara lands with statements such as, 'If we take it off the site, you will never get it back.' Such threats are documented and are on the record.

Members interjecting:

The Hon. R.R. ROBERTS: The Hon. Legh Davis can chortle at the back, but we all know his hobby horses and, if he had any decency or respect for the Pitjantjatjara people in this State, he would be supporting this motion. Instead of prattling on and interjecting inanely, he would be saying, 'Hear, hear!' I hope that he has the decency to vote for he motion.

An honourable member: Sit down!

The Hon. R.R. ROBERTS: That has got you another five minutes. In conclusion, I highlight the lack of integrity of this Minister by pointing out that on several occasions under parliamentary privilege in this coward's castle he has denigrated the Community Development Officer of Mimili. The Minister is a coward. He would not go outside and do that, but he comes in here chortling away—

Members interjecting:

The Hon. R.R. ROBERTS: Again, we have this little private school chortling away on the other side. For the Minister, this is a debating exercise, but for the people of Mimili it is a matter of life and death.

The Hon. R.I. Lucas interjecting:

The Hon. R.R. ROBERTS: The Minister wants me to sit down. He does not like the lash—he knows that he is wrong. I am happy to sit down and have this motion pass as it condemns this juvenile Minister for his juvenile response to his duties as a Minister. The Minister stands condemned. He is disgraceful!

The Council divided on the motion:

AYES (9)

Crothers, T.	Elliott, M. J.
Holloway, P.	Kanck, S. M.
Nocella, P.	Pickles, C. A.
Roberts, R. R. (teller)	Roberts, T. G.
Weatherill, G.	

NOES (8)

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

PAIRS

Cameron, T. G.	Stefani, J. F.
Levy, J. A. W.	Pfitzner, B. S. L.

Majority of 1 for the Ayes.

Motion thus carried.

[Sitting suspended from 6.1 to 7.45 p.m.]

RURAL PARTNERSHIP PROGRAM

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement by the Minister for Primary Industries about the Riverland strategy for the rural partnership program.

Leave granted.

MOTOR VEHICLES (FARM IMPLEMENTS AND MACHINES) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport) obtained leave and introduced a Bill for an Act to amend the Motor Vehicles Act 1959 and to make consequential amendments to the Road Traffic Act. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

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

Leave granted.

The purpose of this Bill is to exempt walking speed self-propelled farm machines from the requirement to be registered and covered by compulsory third party insurance.

The vehicles concerned include cherry pickers and hydraulic lift platforms. Although these machines are capable of self-propulsion they are generally only driven within a worksite for re-positioning, crossing the carriageway of a road, or for unloading. They are usually towed or carried to and from a worksite, rather than driven.

The *Motor Vehicles Act 1959* defines these machines as motor vehicles but exempts self-propelled ride-on lawn mowers and self-propelled wheelchairs from the requirement to be registered and insured.

The Bill therefore proposes that walking speed self-propelled farm machines also be exempt from registration and insurance.

Exempting these vehicles from registration and insurance will mean that there is no recourse to compulsory third party insurance if a person is injured by the negligent operation of one of these machines. However, the small number of these vehicles in South Australia—estimated to be around three or four hundred—the low speeds at which they operate and their extremely limited on-road use is such that the risk of personal injury to a third party is very low.

If the owners or operators of these machines are covered by public liability insurance, that cover will ensure that funds are available in the event that a third party is injured through negligence. The Department of Transport will take steps to advise owners and operators of the desirability of ensuring that they are protected by appropriate insurance, to cover any injuries caused by these vehicles while being used in their self-propelled mode.

However, the Bill also provides for the compulsory third party insurance cover of a towing vehicle to be extended to include a farm machine when it is being towed. This will ensure that the compulsory third party insurance cover is in place for the high accident risk period when the machine is on a road travelling to and from a worksite.

Some confusion has occurred in interpreting the meaning of the term "farm implement" which was introduced in conjunction with the requirement to register tractors and self-propelled farm machines. Registration of a tractor or self-propelled farm machine allows the tractor or machine to tow an unregistered farm vehicle that is not capable of self-propulsion. The Bill proposes to limit the use of the term "farm implement" to those farm vehicles that are not self-propelled and introduce the term "farm machine" for self-propelled farm vehicles.

The opportunity is being taken to rename the "responsible operator" concept, proposed under the National Road Transport Commission (NRTC) business rules for a national registration scheme, and introduced in South Australia by the *Motor Vehicles (Miscellaneous No. 2) Amendment Act 1996*, which is soon to be proclaimed, to "registered operator".

The proposed national vehicle registration legislation, namely, the *Road Transport Reform (Heavy Vehicles Registration) Bill* is expected to be introduced into Federal Parliament early this year and provides for all vehicles to be registered in the name of the individual or organisation accountable for their use.

Due to the need to resolve issues associated with the transfer of ownership and the collection of stamp duty on the change of ownership, South Australia previously legislated to partially introduce the concept at this time by only requiring existing joint registered owners to nominate a "responsible operator".

Since last year's passage of that legislation, the *Motor Vehicles (Miscellaneous No. 2) Amendment Act 1996*, the national consultation process undertaken by the NRTC to settle the *Road Transport Reform (Heavy Vehicles Registration) Bill* has lead to the term "registered operator" being substituted for "responsible operator", a simple change of name.

The passage of this amendment will position South Australia to effectively implement the principles embodied in the *Road Transport Reform (Heavy Vehicles Registration) Bill* "registered operator" provisions at a later date.

In order to meet South Australia's current requirements, while moving toward the proposed national legislation, the existing provisions for "joint registered ownership" of a motor vehicle will be retained and a person in the joint ownership will be nominated as the "registered operator" for the service of notices and acceptance of responsibility for the day-to-day operation of the vehicle.

This provision will also assist the public to understand that the register of motor vehicles does not record "title" or "legal ownership", but provides a very necessary means to manage the use of vehicles on our road network.

The opportunity is also being taken to rectify the omission in the *Motor Vehicles (Miscellaneous No. 2) Amendment Act 1996* to provide a penalty for an offence against section 47(1) of the Motor Vehicles Act.

I commend the Bill to Honourable Members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of the measure on a day to be fixed by proclamation. Under the *Acts Interpretation Act 1915*, different provisions may be brought to operation on different days.

Clause 3: Amendment of s. 5—Interpretation

This clause substitutes a new definition of "farm implement" and inserts a definition of "farm machine". The difference is that a farm implement is a *vehicle without its own automotive power* whereas a farm machine is a *machine with its own automotive power*. Both are *built to perform agricultural tasks* and thus the clause inserts definitions of "agriculture" and "agricultural" and makes a consequential amendment to the definition of "primary producer".

Clause 4: Amendment of s.12—Exemption for certain trailers, farm implements and farm machines

This clause will enable—

- an unregistered tractor, farm implement or prescribed farm machine to be towed on a road by a conditionally registered tractor or farm machine;
- an unregistered farm implement or farm machine to be towed on a road by a registered motor vehicle owned by a primary producer;
- a prescribed farm machine to be driven on the carriageway of a road for the following purposes:
  - to move the machine across the carriageway by the shortest possible route;
  - to move the machine from a point of unloading to a worksite by the shortest possible route;
  - to enable the machine to perform on the carriageway a special function that the machine is designed to perform.

"Prescribed farm machine" is defined to mean a farm machine that is designed mainly for use outside public road systems and that, when driven by its own automotive power, is capable of a speed not exceeding 7 kilometres per hour.

Clause 5: Amendment of s. 20—Application for registration

This clause amends section 20 of the principal Act as it will be in force when the *Motor Vehicles (Miscellaneous No. 2) Amendment Act 1996* comes into operation. The amendment substitutes the expression "registered operator" for "responsible operator".

Clause 6: Amendment of s. 47—Duty to carry number plates

This clause rectifies the omission by the *Motor Vehicles (Miscellaneous No. 2) Amendment Act 1996* to provide a penalty for an offence against section 47(1) of the principal Act.

Clause 7: Amendment of s. 99—Interpretation

This clause makes a minor consequential amendment.

Clause 8: Amendment of Road Traffic Act 1961

Section 141 of the Road Traffic Act prohibits a vehicle that is more than 2.5 metres wide from being driven or towed on a road but exempts certain unregistered farm vehicles if driven or towed between sunrise and sunset. The amendments made by this clause are necessary to make the categories of vehicles exempted under section 141 match the categories of vehicles exempted from registration under section 12 of the Motor Vehicles Act as amended by this measure. As a result, the exemption in section 141 of the Road Traffic Act will apply to—

- a tractor or farm machine driven as a conditionally registered vehicle;
- a tractor, farm implement or farm machine towed by a conditionally registered tractor or farm machine;
- a prescribed farm machine driven under section 12 of the Motor Vehicles Act without registration or insurance.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

LIQUOR LICENSING BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to regulate the sale, supply and consumption of liquor; to repeal the Liquor Licensing Act; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

This Bill represents a major new policy initiative of this Government in the important area of liquor licensing in South Australia.

As Minister for Consumer Affairs, I commissioned Mr Tim Anderson QC, on 30 March, 1996, to review the *Liquor Licensing Act, 1985* and its operation in accordance with agreed terms of reference, which included, among other things, National Competition Policy.

A Public Notice was placed in *Advertiser* on Wednesday 3 April 1996, advising of the Liquor Licensing Review and requesting written submissions by the 31 May, 1996. Likely interested bodies were informed directly of the review and invited to make submissions.

Seventy nine public submissions were received by my department and were examined and considered during the review process. Further, Mr Anderson QC consulted with a number of other representatives of industry interest groups, drug and alcohol abuse prevention bodies, the members of the licensing authority and interstate and overseas licensing bodies. The final Report, containing recommendations for reform of the liquor licensing area, was presented to me on 23 October, 1996 for consideration.

As soon as the Report was finalised, there was intense interest in the liquor industry and community, in gaining access to the recommendations and, accordingly, the Report was released publicly on 20 November, 1996. At that time, the Government indicated that the report contained proposals for sweeping changes to the existing system of sale and supply of liquor in this State. On release of the Report, the Government indicated that, at that time, the only recommendation in the Report which was supported was that harm minimisation and responsible service principles should underpin the sale and supply of liquor in this State.

The Government also indicated that it was establishing a Working Group, comprising industry groups, drug and alcohol abuse prevention groups and other relevant stakeholders, to consider the recommendations of the review with a view to having a draft Bill prepared for introduction into Parliament.

Since that time, the Working Group has been meeting regularly and has refined a series of draft Bills, in order to agree to the provisions of the Bill which I am now introducing. This Bill now will allow further public consultation prior to debate in the Budget Session of Parliament. I am pleased to report that the Working Group operated in an atmosphere of goodwill and co-operation and I thank all the members of the Group for the hard work which they have put into the development of this Bill.

I am aware that there is also a keen interest in the provisions of the Bill in the community and that the opportunity to comment on the provisions of the Bill should be afforded to other interested parties, including local councils and ordinary citizens.

This Bill seeks to rationalise the many confusing differences between various licences, give more power to local communities as well as placing a much greater emphasis upon responsible service of alcohol and minimisation of harm as the foundation of liquor licensing law.

The development of the Bill has involved the consideration of a number of controversial issues, not the least of which was whether the holder of a producer's licence should be the subject of a licence fee after a certain amount of sales. The Anderson Report recommended that retail sales at cellar door should be exempt from licence fees up to an amount of $20 000 per annum and, further, that all retail sales by mail order should be subject to licence fees on the grounds that such licence holders are acting as retailers or wholesalers.

This recommendation was met with considerable concern from the wine industry who submitted that $20 000 was a very low amount and that the imposition of licence fees above this amount would result in small struggling wineries having to close their doors. The Government considered this recommendation and took the view that no fee should be imposed on sales from cellar door.

In reaching this decision, Cabinet recognises the significant contribution that the wine industry makes to the attraction of tourists to South Australia as well as the wider contribution of the wine industry to the economy of South Australia. In August 1985, the then Government abolished licence fees on retail cellar door sales in recognition of "the economic and tourism significance of the wine industry to the State". The licence fee was replaced with a minimum fee, now $179 per annum.

This left the matter of mail order sales to be considered, and I met with representatives of the largest mail order wine retailer in this State to discuss the recommendation in the report. Subsequent to this, I established a Working Group comprising representatives from Treasury, Economic Development Authority and the Liquor Licensing Commissioner. After consideration of the matter, the Group submitted a final report which recommended that mail order sales by holders of a producer's licence not be the subject of a licence fee. In other words, the status quo should be retained. The Bill has been drafted on that basis.

In short, the Bill provides for a new era in the sale and supply of liquor. The major changes inherent in this Bill include:

- encouraging responsible attitudes towards the promotion, sale, supply and consumption and use of liquor, to develop and implement principles directed towards that end and to minimise the harm associated with the consumption of liquor;
- increased advertising requirements for the grant, removal or transfer of a licence or a change to the trading conditions of a licence, in order to ensure surrounding residents are informed of the application and, further, a requirement that the applicant specifically notify the local council and occupiers of land or premises adjacent to the licensed premises;
- increased rights of intervention in proceedings before the licensing authority for the Commissioner of Police, a local council, a particular body or person who the licensing authority has specifically directed be notified of the application and the Liquor and Gaming Commissioner (in proceedings before the Licensing Court);
- a wider general right of objection to an application for any person, including the ground that the grant of the application would not be consistent with the object of the Act or that the application is not necessary in order to provide for the needs of the public in the area;
- to reduce the cost and time involved in making application for a grant, removal or transfer of a liquor licence by increasing the matters which may be considered by the Liquor and Gaming Commissioner and allowing for the Commissioner to seek to facilitate an agreement between the parties by conciliation of a contested matter, before referral to the Licensing Court;
- higher penalties for the offence of sale or supply of liquor to an intoxicated person and to a minor;
- removal of anti-competitive provisions in the Liquor Licensing Act, 1985 i.e. the provision requiring certain clubs to purchase their liquor from a nominated hotel or bottle shop;
- wider trading conditions for the holders of a liquor licence, including the ability for a restaurant to be approved to supply liquor without a meal to persons whilst seated at a table and for a club to admit members of the public, without the requirement

to sign in (this puts clubs without gaming machines on the same footing as clubs with gaming machines);

- the removal of the general facility licence, providing for holders of this licence to retain their present trading conditions for two years, within which period they may apply to the licensing authority to have the licence converted into some other licence category considered appropriate by the licensing authority;
- the creation of a special circumstances licence which is only to apply in circumstances where a licence of no other category could adequately cover the kind of business proposed by the applicant and where the proposed business would be substantially prejudiced if the applicant's trading rights were limited to those possible under a licence of some other category;
- that Sunday trading hours be from 11 a.m. to 8 p.m. with the ability for the licence holder to apply for extended trading from 8 p.m. until 5 a.m. on Monday if able to satisfy the licensing authority that the conditions for extended trade have been met, and there is no disturbance, etc, to local communities (this will achieve a more rational approach to late trading than the misused general facility licence);
- extended trading hours for sale and supply of liquor, but only if the licensing authority is satisfied that the grant of the extended trade would be unlikely to result in undue offence, annoyance, disturbance, noise or inconvenience and that the licensee will implement appropriate policies and practices to guard against the harmful and hazardous use of liquor;
- the retention of existing trading hours for Good Friday and Christmas Day (at present trading on Christmas Day from 9 a.m. to 11 a.m. has been retained but may be reviewed to 10 a.m. to 12 p.m. in light of the Working Group's views that this may be a more suitable period). The hotel industry has indicated a desire to trade into the first few hours of Christmas Eve. The Liquor and Gaming Commissioner has advised that at the moment he does allow some trading into the first few hours of Christmas Day. I have advised the AHA that I would not agree to this at this stage, but that I would flag the issue for further consideration during the recess.

There are other changes in process and substance in the Bill. The Government is of the view that they all provide a proper balance in the complex area of liquor licensing.

I commend this Bill to honourable members.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Objects of this Act

This clause sets out the objects of the Bill.

Clause 4: Interpretation

This clause contains definitions for the purposes of the Bill.

Clause 5: Lodgers

This clause sets out when a person will be considered to be a lodger for the purposes of the Bill. Conditions relating to the supply of liquor to lodgers are relevant to hotel licences, residential licences and club licences.

Clause 6: Persons with authority in a trust or corporate entity

This clause sets out the circumstances in which a person will be taken to occupy a position of authority in a trust or corporate entity for the purposes of the Bill. This is relevant to determining whether an applicant for a licence is a fit and proper person.

Clause 7: Close associates

This clause sets out the circumstances in which persons will be considered to be close associates for the purposes of the Bill. This is relevant to preventing plurality of certain licences (namely, a wholesale liquor merchant's licence must not be held together with a hotel licence, a retail liquor merchant's licence or a special circumstances licence).

PART 2

LICENSING AUTHORITIES

DIVISION 1—THE COMMISSIONER AND STAFF

Clause 8: The Liquor and Gaming Commissioner

The office of Liquor and Gaming Commissioner is to continue as an office in the Public Service.

Clause 9: Inspectors and other officers

This clause provides for staff of the Commissioner.

Clause 10: Delegation

This clause allows the Commissioner to delegate functions or powers.

Clause 11: Collaboration with other liquor licensing authorities

This clause allows disclosure of information to corresponding authorities in other jurisdictions and in other ways that the Commissioner considers to be in the public interest.

DIVISION 2—THE LICENSING COURT OF SOUTH AUSTRALIA

Clause 12: Continuation of Court

Clause 13: Court to be court of record

Clause 14: Constitution of the Court

Clause 15: Judges

Clause 16: Jurisdiction of the Court

These clauses continue to make provision for the Licensing Court of SA. The clauses recognise that former District Court Judges may constitute the Court and that the Court, separately constituted of different Judges, may sit at the same time to hear and determine separate proceedings.

DIVISION 3—DIVISION OF RESPONSIBILITIES BETWEEN THE COMMISSIONER AND THE COURT

Clause 17: Division of responsibilities between the Commissioner and the Court

This clause sets out when the Court is to act as the licensing authority and when the Commissioner is to act as the licensing authority.

Generally, the Commissioner is to determine non-contested matters and contested applications for limited licences. On other contested matters the Commissioner must attempt conciliation. If the matter remains contested the Commissioner may determine it if the parties consent but otherwise the matter must be referred to the Court.

An appeal to the Court is provided on a contested matter determined by the Commissioner.

DIVISION 4—PROCEEDINGS BEFORE THE COMMISSIONER

Clause 18: Proceedings before the Commissioner

This clause provides for informal proceedings.

Clause 19: Powers of Commissioner with respect to witnesses and evidence

The Commissioner is provided with powers to issue summons etc. to ensure relevant information and records are provided.

Clause 20: Representation

This clause provides for representation of parties in proceedings before the Commissioner.

Clause 21: Power of Commissioner to refer questions to the Court

The Commissioner is empowered to refer to the Court any proceedings that involve questions of substantial public importance or any question of law that arises in proceedings before the Commissioner or any other matter that should, in the public interest or in the interests of a party to the proceedings, be heard and determined by the Court.

Clause 22: Application for review of Commissioner's decision

Commissioner's decisions (other than those relating to a subject on which the Commissioner has absolute discretion) are subject to review by the Court.

DIVISION 5—PROCEEDINGS BEFORE THE COURT

Clause 23: Proceedings before the Court

This clause provides for informal proceedings.

Clause 24: Powers with respect to witnesses and evidence

The Court is provided with powers to issue summons etc. to ensure relevant information and records are provided.

Clause 25: Representation

This clause provides for representation of parties in proceedings before the Court.

Clause 26: Power to award costs

Costs may be awarded in relation to frivolous or vexatious proceedings or objections.

Clause 27: Appeal from orders and decisions of the Court

This clause provides for appeals from the Court to the Full Supreme Court except on a decision made on the review of a decision of the Commissioner or if appeal is expressly excluded in a provision of the Bill.

Clause 28: Case stated on question of law

The Court is empowered to state a case on a question of law to the Supreme Court.

PART 3

LICENCES

DIVISION 1—REQUIREMENT TO HOLD LICENCE

Clause 29: Requirement to hold licence

This clause makes it an offence to sell liquor without a licence. Sell is broadly defined in the interpretation provision to include—

- to supply, or offer to supply, in circumstances in which the supplier derives, or would derive, a direct or indirect pecuniary benefit;
- to supply, or offer to supply, gratuitously but with a view to gaining or maintaining custom, or otherwise with a view to commercial gain.

Clause 30: Cases where licence is not required

This clause sets out exemptions to the general requirement to hold a licence.

DIVISION 2—LICENCES

Clause 31: Authorised trading in liquor

The terms and conditions of a licence are to determine the extent of the authority to sell liquor conferred by the licence.

The current categories of licence are continued except that a general facility licence is to be phased out and a special circumstances licence is to be introduced.

Clause 32: Hotel licence

Clause 33: Residential licence

Clause 34: Restaurant licence

Clause 35: Entertainment venue licence

Clause 36: Club licence

Clause 37: Retail liquor merchant's licence

Clause 38: Wholesale liquor merchant's licence

Clause 39: Producer's licence

Clause 40: Special circumstances licence

Clause 41: Limited licence

These clauses set out the terms and conditions of the various categories of licences and the circumstances in which they may be granted.

A special circumstances licence may only be granted if the applicant satisfies the licensing authority that—

- a licence of no other category (either with or without an extended trading authorisation) could adequately cover the kind of business proposed by the applicant; and
- the proposed business would be substantially prejudiced if the applicant's trading rights were limited to those possible under a licence of some other category.

DIVISION 3—CONDITIONS OF LICENCE

Clause 42: Mandatory conditions

This clause sets out conditions that apply to all licences including a condition requiring compliance with relevant codes of practice about preventing the harmful and hazardous use of liquor or promoting responsible attitudes in relation to the promotion, sale, supply and consumption of liquor.

Clause 43: Power of licensing authority to impose conditions

This clause enables the licensing authority to impose further conditions and sets out examples.

Clause 44: Extended trading authorisation

A licence is not to authorise extended trading unless the grant of the authorisation would be unlikely to result in undue offence, annoyance, disturbance, noise or inconvenience and the licensee will implement appropriate policies and practices to guard against the harmful and hazardous use of liquor.

Extended trade is defined in the interpretation provision to mean the sale of liquor between midnight and 5 am on any day, or between 8 pm and midnight on a Sunday but does not include the sale of liquor to a lodger or to a diner with or ancillary to a meal.

Clause 45: Compliance with licence conditions

This clause makes the licensee guilty of an offence if licence conditions are breached. If the condition regulates the consumption of liquor, it makes not only the licensee but also a person who consumes liquor knowing the consumption to be contrary to the condition guilty of an offence.

DIVISION 4—GENERAL PROVISIONS

Clause 46: Unauthorised sale or supply of liquor

This clause makes it an offence for the licensee to sell liquor in circumstances not authorised by the licence.

Clause 47: How licences are to be held

This clause allows a licence to be jointly held and also imposes requirements where a licence is held by a trustee of a business.

Clause 48: Plurality of licences

Multiple licences may be held except that the holder of a wholesale liquor merchant's licence (or a close associate) must not hold a hotel licence, retail liquor merchant's licence or special circumstances licence.

Limitations are placed on more than one licence being held in respect of the same premises.

Clause 49: Special provision for club licences

This clause requires the holder of a club licence to be incorporated under the *Associations Incorporation Act 1985* and establishes other criteria for eligibility to hold a club licence.

Clause 50: Minors not to be licensees

A minor is not to hold a licence or to occupy a position of authority in a trust or corporate entity that holds a licence.

PART 4

APPLICATIONS, INTERVENTIONS AND OBJECTIONS

DIVISION 1—FORMAL REQUIREMENTS

Clause 51: Form of application

This clause is of a procedural nature.

Clause 52: Certain applications to be advertised

This clause sets out requirements for advertisement of an application for the grant, removal or transfer of a licence or a change to the trading conditions of a licence.

DIVISION 2—GENERAL POWERS AND DISCRETIONS OF LICENSING AUTHORITY

Clause 53: Discretion of licensing authority to grant or refuse application

The licensing authority is required to have regard to the objects of the Bill, to consider the merits of each application and may waive formalities or procedures in appropriate cases.

Clause 54: Order for determining applications

The regulations may determine the order in which applications are to be considered.

Clause 55: Factors to be taken into account in deciding whether a person is fit and proper to hold licence

This clause requires a licensing authority to take into account the reputation, honesty and integrity (including the creditworthiness) of the applicant and authorises the authority to take into account the reputation, honesty and integrity of people with whom the applicant associates.

In relation to managers and supervisors the licensing authority must also consider whether the person has the appropriate knowledge, experience and skills for the purpose and, in particular, whether the person has knowledge, experience and skills in encouraging the responsible supply and consumption of liquor.

DIVISION 3—APPLICATION FOR NEW LICENCE

Clause 56: Applicant to be fit and proper person

The licensing authority must be satisfied that the applicant is a fit and proper person to hold the licence and, if the applicant is a trust or corporate entity, that each person who occupies a position of authority in the entity is a fit and proper person to occupy such a position in an entity holding a licence of the class sought in the application.

Supervisors and managers may be required to undertake specified training.

Clause 57: Requirements for premises

This clause sets standards for licensed premises and requires all relevant approvals to have been obtained.

Clause 58: Grant of hotel licence or retail liquor merchant's licence

Special limitations apply to the granting of a hotel licence or retail liquor merchant's licence. The licence will not be granted unless it is necessary for the purposes of satisfying public demand for liquor for consumption in the relevant circumstances.

Clause 59: Certificate of approval for proposed premises

A certificate may be given in relation to proposed premises.

DIVISION 4—REMOVAL OF LICENCE

Clause 60: Removal of hotel licence or retail liquor merchant's licence

Clause 61: Removal of hotel licence or retail liquor merchant's licence

These clauses impose requirements relating to the transfer of a licence to alternative premises.

Clause 62: Certificate for proposed premises

This clause provides for approvals in relation to proposed premises.

DIVISION 5—TRANSFER OF LICENCE

Clause 63: Applicant for transfer must be fit and proper person

Clause 64: Limitation on sale or assignment of rights under licence

Clause 65: Transferee to succeed to transferor's liabilities and rights

These clauses provide for the transfer of licences (other than club or limited licences).

DIVISION 6—VOLUNTARY SUSPENSION AND REVOCATION OF LICENCE

Clause 66: Suspension and revocation of licence

This clause provides for suspension of a licence at the request of the licence holder and for revocation of a licence if it appears to the Commissioner that the licensee has ceased business.

Clause 67: Surrender of licence

This clause provides for surrender of a licence subject to the approval of the Commissioner.

DIVISION 7—ALTERATION AND REDEFINITION OF LICENSED PREMISES

Clause 68: Alteration and redefinition of licensed premises

The licensee is required to obtain the approval of the licensing authority before altering licensed premises.

DIVISION 8—EXTENSION OF TRADING AREA

Clause 69: Extension of trading area

This clause governs the extension of licensed premises to an adjacent area with the approval of the licensing authority.

DIVISION 9—VARIATION OF NON-STATUTORY CONDITIONS OF LICENCE

Clause 70: Variation of non-statutory conditions of licence

This clause authorises variation of conditions of licence imposed by the licensing authority.

DIVISION 10—APPROVAL OF MANAGEMENT AND CONTROL

Clause 71: Approval of management and control

The licensing authority may approve managers and persons who seeks to assume a position of authority in a trust or corporate entity.

The clause also requires approved managers to wear identification.

DIVISION 11—LESSOR'S CONSENT

Clause 72: Consent of lessor or owner required in certain cases

The licensing authority is required to ensure that the lessor or owner of premises proposed to be used in connection with a licence consent to that use.

DIVISION 12—DEVOLUTION OF LICENSEE'S RIGHTS

Clause 73: Devolution of licensee's rights

This clause provides for approvals, permissions or temporary licences in various circumstances including death of a licensee, physical or mental incapacity of a licensee, on a licensee ceasing to occupy licensed premises or on surrender or revocation of a licence.

Clause 74: Bankruptcy or winding up of licensee

This clause provides for administration in the case of bankruptcy or winding up.

Clause 75: Notice to be given of exercise of rights under this Division

Notice is to be given if action is taken under this Division without the prior permission of the licensing authority.

DIVISION 13—RIGHTS OF INTERVENTION AND OBJECTION

Clause 76: Rights of intervention

This clause provides a right to intervene in proceedings to the Commissioner of Police, the relevant council, bodies or persons notified of an application and the Commissioner.

Clause 77: General right of objection

This clause sets out the grounds on which objection may be made to applications that have been advertised as required by the Bill.

Clause 78: Lessor's special right of objection

This clause provides special rights to lessors to object to certain applications relating to leased premises.

Clause 79: Variation of objections

Variations are at the discretion of the licensing authority.

PART 5

LICENCE FEES

DIVISION 1—FEES

Clause 80: Licence fee

This clause sets out the amount of licence fee payable for each licence period.

Clause 81: Licence fee where licence granted during course of licence period

This clause provides for the calculation of the fee if the licence is granted during the course of a licence period.

Clause 82: Fee payable on surrender or abandonment of licence

This clause provides for fees on surrender or abandonment of a licence in certain circumstances. It authorises the Commissioner to remit the whole or part of the fee.

Clause 83: Payment of licence fee

This clause sets out the required timing of payments, which may be in instalments. It also provides for a fine on overdue amounts.

Clause 84: Deferment of payment of licence fee

The Commissioner may authorise deferment if a licence is suspended at the request of the licensee.

DIVISION 2—ASSESSMENT OF FEES

Clause 85: Commissioner to assess and determine fees

The Commissioner is required to assess and determine the fees payable.

Clause 86: Estimate by Commissioner on grant of licence

The Commissioner is to estimate the nature and volume of trade in liquor where necessary for an assessment.

Clause 87: Power to estimate licence fee where information inadequate

The Commissioner is empowered to estimate as the Commissioner considers appropriate if the licensee fails to provide the necessary information.

Clause 88: Reassessment of licence fee

This clause provides for reassessment by the Commissioner within 4 years at the Commissioner's own initiative or on application by the licensee.

Clause 89: Review of Commissioner's assessment

The licensee is required to pay the assessed fee even if the assessment is subject to review by the Court. Provisions for adjustment after review are included.

DIVISION 3—RECOVERY OF LICENCE FEES

Clause 90: Recovery by civil process

Licence fees and default penalties are recoverable as debts.

Clause 91: Suspension of licence on non-payment of licence fee

Non-payment of a licence fee after written demand results in suspension of the licence.

Clause 92: Penalty for providing incorrect information

The Court may impose a pecuniary penalty of the amount underassessed if satisfied that a licence fee was underassessed because of incorrect information provided by the licensee or former licensee or because of a failure on the part of the licensee or former licensee to provide information as required by or under the Bill.

Clause 93: Order for the payment of money

The Commissioner may obtain an order of the Court for payment of amounts owed by a licensee under this Part (including payment by a director or related body corporate) and the order may be registered in the Magistrates Court or the District Court and enforced as a judgment of the court in which it is registered.

DIVISION 4—RECORDS AND RETURNS

Clause 94: Records of liquor transactions

This clause obliges licensees to keep records of all transactions involving the sale or purchase of liquor.

Clause 95: Returns

Licensees and auctioneers are required to lodge returns with the Commissioner.

DIVISION 5—INQUIRIES INTO CERTAIN ARRANGEMENTS

Clause 96: Inquiries into certain arrangements

The Commissioner is authorised to conduct an inquiry to determine whether an agreement, arrangement or understanding exists between licensees or between a licensee and any other person, the object or effect of which is to reduce a licence fee.

PART 6

CONDUCT OF LICENSED BUSINESS

DIVISION 1—SUPERVISION AND MANAGEMENT

Clause 97: Supervision and management of licensee's business

This clause requires the business of a licensee to be personally supervised and managed by the licensee or a director of the licensee or a person approved by the licensing authority.

Clause 98: Approval of assumption of positions of authority in corporate or trust structures

This clause makes it an offence for a person to assume a position of authority in a trust or corporate entity that holds a licence (other than a limited licence) without the approval of the licensing authority.

DIVISION 2—PROFIT SHARING

Clause 99: Prohibition of profit sharing

This clause prohibits a licensee entering into a profit sharing arrangement with an unlicensed person or allowing an unlicensed person to exercise effective control over the licensed business.

The Court is empowered to exempt persons from the application of the provision in certain circumstances.

DIVISION 3—SUPPLY OF LIQUOR TO LODGERS

Clause 100: Supply of liquor to lodgers

This clause sets out the conditions that must be observed in relation to the supply of liquor to lodgers.

Clause 101: Record of lodgers

The licensee is required to keep records of lodgers accommodated at the licensed premises.

DIVISION 4—REMOVAL AND CONSUMPTION OF

LIQUOR

Clause 102: Restriction on taking liquor from licensed premises

This clause makes it an offence for a person to take liquor from licensed premises contrary to the relevant authorisations of the licence for on premises or off premises supply of liquor.

Clause 103: Restriction on consumption of liquor in, and taking liquor from, licensed premises

This clause makes it an offence for a person to consume or purchase liquor etc contrary to the relevant authorisations of the licence.

Clause 104: Liquor may be brought onto, and removed from, licensed premises in certain cases

This clause caters for BYO arrangements.

DIVISION 5—ENTERTAINMENT

Clause 105: Entertainment on licensed premises

The licensee must obtain the consent of the licensing authority before using the licensed premises (or adjacent areas) for entertainment purposes.

DIVISION 6—NOISE

Clause 106: Complaint about noise, etc., emanating from licensed premises

This clause provides for the laying of complaints about offensive behaviour or noise etc with the Commissioner by the Commissioner of Police or the council for the area in which the licensed premises are situated or a person claiming to be adversely affected by the subject matter of the complaint. Limitations apply to the latter category of complainant.

The Commissioner is required to act as a conciliator but if the matter is not settled must refer it to the Court. The Court may make an order against the licensee resolving the subject matter of the complaint.

DIVISION 7—EMPLOYMENT OF MINORS

Clause 107: Minors not to be employed to serve liquor in licensed premises

This clause makes it an offence on the part of the licensee if a minor is employed to sell, supply or serve liquor on licensed premises. Exceptions are made for children of the licensee of or over 16 and students of a prescribed course of training who are of or over 16.

DIVISION 8—SALE OR SUPPLY TO INTOXICATED PERSONS

Clause 108: Liquor not to be sold or supplied to intoxicated persons

This clause makes it an offence on the part of the licensee, the manager of the licensed premises and the person by whom the liquor is sold or supplied if liquor is sold or supplied on licensed premises to a person who is intoxicated. Certain defences are provided. The penalties are significant.

DIVISION 9—MISCELLANEOUS REQUIREMENTS

Clause 109: Copy of licence to be kept on licensed premises

A copy of the licence must be displayed at or near the front entrance of licensed premises.

PART 7

MINORS

Clause 110: Sale of liquor to minors

This clause creates offences with significant penalties relating to the sale, supply or consumption of liquor to or by a minor on licensed premises.

Clause 111: Areas of licensed premises may be declared out of bounds to minors

This clause enables a licensee to exclude minors from certain areas with the approval of the licensing authority.

Clause 112: Minors not to enter or remain in certain licensed premises

This clause excludes minors from certain areas of licensed premises during certain hours.

Clause 113: Notice to be erected

In areas where minors are permitted notices must be erected stating the minimum drinking age etc.

Clause 114: Offences by minors

This clause creates offences relating to the supply to or consumption by minors of liquor in regulated premises.

Regulated premises are defined in the interpretation provision to mean—

- licensed premises; or
- a restaurant, cafe or shop; or
- an amusement parlour or amusement arcade; or
- a public place—
  - to which admission is gained on payment of a charge, presentation of a ticket or compliance with some other condition; or
  - in which entertainment or refreshments are provided, or are available, at a charge; or
  - that is used in some other way for the purpose of financial gain; or
- a public conveyance; or
- premises of a kind classified by regulation as regulated premises,

and includes an area appurtenant to any such premises.

Clause 115: Evidence of age may be required

Authorised persons are empowered to require production of evidence of age if there are reasonable grounds to suspect that a person is under 18.

An authorised person is defined to mean—

- in relation to regulated premises or a public place—an inspector or a police officer;
- in relation to regulated premises—the occupier or manager of the premises or an agent or employee of the occupier.

Clause 116: Power to require minors to leave licensed premises

Authorised persons are empowered to require minors on licensed premises for the purpose of consuming liquor in contravention of the Bill to leave the licensed premises.

An authorised person is defined to mean—

- the licensee or an agent or employee of the licensee; or
- a manager of the licensed premises; or
- an inspector or a police officer.

Clause 117: Minors may not consume or possess liquor in public places

This clause makes it an offence for a minor to consume or possess liquor in a public place or for a person to supply liquor to a minor in a public place (unless the minor is in the company of an adult guardian or spouse).

PART 8

DISCIPLINARY ACTION

Clause 118: Application of this Part

This clause lists the persons who may be subject to disciplinary action under this Part.

Clause 119: Cause for disciplinary action

This clause sets out the grounds that may result in disciplinary action being taken.

Clause 120: Disciplinary action before the Court

This is a procedural provision allowing the Commissioner, the Commissioner of Police and, in certain cases, a council to lay a complaint before the Court.

Clause 121: Disciplinary action

This clause sets out the disciplinary action that may be taken by the Court, namely—

- in the case of a person licensed under the measure, add to, or alter, the conditions of the licence;
- in the case of a person licensed or approved under the measure, suspend or revoke the licence or approval;
- in the case of any person—
  - reprimand the person;
  - impose a fine not exceeding $15 000 on the person;
  - disqualify the person from being licensed or approved under the measure.

The Court is obliged to take certain disciplinary action in certain cases involving minors.

PART 9

ENFORCEMENT

DIVISION 1—POWERS OF ENTRY, ETC.

Clause 122: Powers of authorised officers

This clause sets out the powers of authorised officers for the purposes of administration and enforcement of the measure.

An authorised officer is defined to mean the Commissioner or an inspector or a police officer.

Clause 123: Power to enter and search premises and confiscate liquor

This clause authorises a police officer to use force to enter and search premises if the officer suspects on reasonable grounds that an offence against the measure is being committed on any premises or that there is on licensed or other premises evidence of an offence against the measure.

DIVISION 2—POWER TO REMOVE OR REFUSE ENTRY

Clause 124: Power to refuse entry or remove persons guilty of offensive behaviour

This clause authorises an authorised person to exercise reasonable force to—

- remove from licensed premises any person who is intoxicated or behaving in an offensive or disorderly manner; or
- prevent the entry of such a person onto licensed premises.

An authorised person is defined to mean—
- the licensee or an agent or employee of the licensee; or
- a manager of the licensed premises; or
- a police officer.

DIVISION 3—POWER TO BAR

Clause 125: Power to bar

This clause empowers a licensee or the manager of licensed premises to bar a person from entering or remaining on the licensed premises for a specified period, not exceeding three months—
- if the person commits an offence, or behaves in an offensive or disorderly manner, on, or in an area adjacent to, the licensed premises; or
- on any other reasonable ground.

Clause 126: Orders

This provision contains procedural requirements relating to orders.

Clause 127: Power to remove person who is barred

An authorised person is empowered to exercise reasonable force to remove a person barred under this Division.

An authorised person is defined to mean—
- the licensee or an agent or employee of the licensee; or
- a manager of the licensed premises; or
- a police officer.

Clause 128: Commissioner may review order

If the period for which a person is barred exceeds one month (or an aggregate of one month in three) the person may apply for review of the order to the Commissioner.

PART 10
UNLAWFUL CONSUMPTION OF LIQUOR

Clause 129: Consumption on regulated premises

This clause creates offences about the consumption or supply of liquor on regulated premises that are unlicensed. See the explanatory note to clause 114 for an explanation of the definition of regulated premises.

Clause 130: Unlawful consumption of liquor

This clause allows organisers of certain entertainments to stipulate that no alcohol is to be consumed at the entertainment and provides for enforcement of such a stipulation.

Clause 131: Control of consumption etc. of liquor in public places

This clause contemplates regulations imposing prohibitions on the consumption or possession of liquor in public places (ie the creation of dry areas).

PART 11
MISCELLANEOUS
DIVISION 1—OFFENCES AND PROCEDURE

Clause 132: Penalties

This clause imposes a penalty for an offence where one is not specifically provided in a provision.

Clause 133: Recovery of financial advantage illegally obtained

The Court is empowered to order payment as a debt to the Crown of any financial gain resulting from an offence against the measure or breach of licence condition.

Clause 134: Vicarious liability

This clause provides for vicarious liability.

Clause 135: Evidentiary provision

This clause provides evidentiary aids for prosecutions and other legal proceedings.

DIVISION 2—GENERAL

Clause 136: Service

This clause sets out the means by which notices etc may be served under the measure.

Clause 137: Immunity from liability

This clause is a standard provision providing immunity from liability for officers engaged in the administration or enforcement of the measure.

Clause 138: Regulations

This clause provides general regulation making power.

SCHEDULE
Repeal and Transitional Provisions

Clause 1: Definitions

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

Clause 2: Repeal

This clause repeals the *Liquor Licensing Act 1985*.

Clause 3: Existing licences

This clause provides for the continuation of existing licences.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

PARTNERSHIP (LIMITED PARTNERSHIPS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General): obtained leave and introduced a Bill for an Act to amend the Partnership Act and to make consequential amendments to the Business Names Act. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

This Bill amends the *Partnership Act 1891* ("the Act") to recognise and regulate limited partnerships, and to make other minor uncontroversial amendments to the Act.

A limited partnership as generally understood is an ordinary partnership with limited liability passive partners added on. The essence of a limited liability partnership is that the passive partners contribute equity to the firm but do not take part in management and are limited in regard to their liability to third parties to the extent of their subscribed capital. Therefore, there is a degree of separation of the ownership of the partnership and control of the partnership. Once the limited partner becomes involved in management that partner loses the benefit of the statutory limit on liability. However, a limited partner is not to be regarded as taking part in the management of the business (so as to incur unlimited liability) merely because the limited partner acts in a number of other roles, such as the giving of professional advice to the partnership, or providing a guarantee or indemnity.

Limited partnerships provide a relatively simple and inexpensive commercial vehicle for attracting risk or venture capital. While limited partnerships may be subject to some aspects of the corporations law in regard to their dealings, on the whole limited partnerships provide a less regulated alternative to incorporated companies.

In early 1992, limited partnerships were being increasingly used as they had a number of advantages. They were a relatively simple business structure to raise capital for major projects and for small business and, most importantly, there were significant tax advantages for partners.

However, in the 1992-93 budget the Federal government announced that limited partnerships would be taxed at the corporate rate, and the tax advantage was lost. Around the same year, the Corporations law was amended to provide that certain limited partnerships were required to produce a prospectus in compliance with the Corporations Law. The change to the taxation law and the corporations law reduced the attractiveness of limited partnerships as a vehicle for raising risk or venture capital. However, at a recent meeting of the Joint Legislation Review Committee (a committee comprising Chartered Accountants and Certified Practising Accountants) participants indicated that there is still a use for limited partnerships, and that South Australia was suffering economically through failing to enact limited partnership legislation. Most other States in Australia have limited partnership legislation and therefore investors were taking their money interstate to invest.

Limited partnership legislation will mean that entrepreneurs who wish to use limited partnerships will no longer need to establish a limited partnership interstate. The abolition of this obstacle will improve South Australia's investment potential, because there will be an alternative business vehicle to raise risk and venture capital.

This Bill provides statutory recognition of limited partnerships, and alters the general law of partnerships as far as necessary to accommodate limited partnerships. However, the Bill does not intend to completely regulate limited partnerships. Much of the detail should be left to the partnership agreements, and the general laws of partnership. More particularly, the Bill provides for the formation and composition of limited partnerships, when a partner is a limited partner, the rights and obligations of the limited partner and the requirements that must be complied with for limited partnerships not registered in South Australia to be recognised by South Australian law. Also, it provides for the cessation and dissolution of limited partnerships, the obligations of limited partnerships and the requirements for changing partners or liabilities.

The Bill is consistent with interstate limited partnership legislation, which appears to have been implemented without problems interstate. In fact, this limited partnership structure is common in many major overseas countries including the United States, the United Kingdom, Canada, New Zealand, and South Africa. Con-

sistent legislation will facilitate the recognition of the South Australian legislation in other States through mutual recognition provisions. This recognition will assist with the development of limited partnerships carrying on business and raising capital in more than one state, or one country.

The Bill also makes some consequential amendments to the *Business Names Act 1996* (to prevent unnecessary duplication in the registration processes) and makes Statute Law Revision amendments to the general partnership provisions of the *Partnership Act 1891*.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Insertion of Part

This clause updates the format of the principal Act by moving the short title and interpretation provisions from the end of the Act to the beginning of the Act (in keeping with modern drafting practice).

Clause 4: Substitution of heading

This clause substitutes a new heading into the principal Act.

Clause 5: Substitution of heading

Clause 6: Substitution of heading

Clause 7: Substitution of heading

Clause 8: Substitution of s. 45

These clauses substitute new headings in the principal Act.

Clause 9: Substitution of ss. 47 and 48

This clause repeals sections 47 and 48 of the principal Act and substitutes a new Part dealing with Limited Partnerships. Section 47 is now obsolete. Section 48 is the short title provision, which is now proposed to be inserted at the beginning of the Act (under clause 3 of this measure).

New Part 3 contains provisions as follows:

PART 3
LIMITED PARTNERSHIPS
DIVISION 1—PRELIMINARY

47. Definitions

Various terms used in the provisions on limited partnerships are defined. In particular, a limited partner is defined as a partner whose liability to contribute to the debts or obligations of the partnership is limited.

48. Application of general law to limited partnerships

The other Parts of the principal Act apply to limited partnerships (except where modified by this Part).

DIVISION 2—NATURE AND FORMATION OF LIMITED PARTNERSHIPS

49. Composition of limited partnership

There must be at least one general partner and one limited partner (either of which may be a body corporate).

50. Size of a limited partnership

There may be any number of limited partners but the number of general partners is limited by the outsize partnership provision of the *Corporations Law*.

51. Formation of a limited partnership

Limited partnerships are formed by registration.

DIVISION 3—REGISTRATION OF LIMITED PARTNERSHIPS

52. Application for registration

The procedure for applying to the Corporate Affairs Commission for registration of a limited partnership is set out. Where the partnership would also be required to register its firm name under the *Business Names Act 1996*, the application under this section also operates as an application under that Act.

53. Registration

The procedure for registration is set out, including the particulars of a limited partnership that are to be included in the Register.

54. Register of limited partnerships

The "Register of Limited Partnerships" is to be kept by the Commission. The Register may, on payment of the prescribed fee, be inspected by members of the public.

55. Changes in registered particulars

Changes must be notified within 28 days after the change occurred. The Commission will record changes notified in the Register unless the partnership has become ineligible for registration or the change impacts on the *Business Names Act* registration, in which case the Commission may postpone recording the change pending registration of the name under that Act. Failure to notify a change is an offence punishable by a fine of $1 250 or an expiation fee of $160.

56. Certificates of registration, etc.

The Commission will issue certificates as to the formation and composition of a limited partnership or as to any other particulars recorded in the Register and certificates so issued are conclusive evidence of the particulars set out in the certificate (although for particulars not relating to formation of the partnership, the certificate is rebuttable).

57. Commission may correct Register

The Commission may correct errors or deficiencies in the Register or in certificates issued under this Act.

DIVISION 4—LIMITATION OF LIABILITY OF LIMITED PARTNERS

58. Liability of limited partner limited to amount shown in Register

The total liability of a limited partner is limited to the amount shown in the Register as that partner's liability.

59. Change in liability of limited partner

A reduction in a limited partner's liability does not apply to debts or obligations that arose before the reduction was recorded in the Register, but an increase in a limited partner's liability extends to debts or obligations of the limited partnership arising before or after the increase was recorded in the Register.

60. Change in status of partners

If a general partner becomes a limited partner, the limitation on liability does not apply to debts or obligations arising before the change of status but if a limited partner becomes a general partner, the limitation on liability no longer applies in relation to debts and obligations that arose before that change of status.

61. Liability for business conducted outside the State

The limitation on the liability extends to debts or obligations incurred outside the State.

62. Liability for limited partnerships formed under corresponding laws

A limitation on liability under a corresponding law extends to debts or obligations incurred in this State.

The law of another State or Territory may not be declared to be a corresponding law unless the Minister has certified to the Governor that the law is similar to this Part and that the law provides for reciprocal recognition of a limitation under this Part. The law of another country may not be declared to be a corresponding law unless the Minister has certified to the Governor that the law provides for the limitation of liability for partners in certain partnerships.

63. Contribution towards discharge of debts, etc.

A contribution by a limited partner towards debts or obligations of the partnership is to be in the form of money. If the contribution (or part of it) is returned to the limited partner, his or her liability is restored accordingly.

64. Limitation on liability may not be varied by partnership agreement, etc.

The provisions relating to limitation on liability may not be varied by the partnership agreement or by consent.

DIVISION 5—OTHER MODIFICATIONS OF GENERAL LAW OF PARTNERSHIP

65. Limited partner not to take part in the management of partnership

A limited partner must not manage the business and does not have power to bind the partnership. If, however, a limited partner does take part in management, the limited partner will be liable as a general partner for debts and obligations incurred while so taking part.

A limited partner may access and inspect the books and examine the business of the partnership and advise and consult with other partners in relation to such matters.

This provision may not be varied by the partnership agreement or the consent of the partners.

66. Differences between partners

Differences as to ordinary matters may be decided by a majority of the general partners but this provision may be varied by the partnership agreement or the consent of the partners.

67. Change in partners

A limited partner may (with consent) assign his or her share in the partnership. A person may be admitted as a partner in a limited partnership without the necessity to obtain the consent of any limited partner.

These provisions may, however, be varied by the partnership agreement or the consent of the partners.

DIVISION 6—DISSOLUTION AND CESSATION OF LIMITED PARTNERSHIPS

68. Dissolution not available in certain cases

Subject to the partnership agreement—

- A limited partnership is not dissolved by notice given by a limited partner or by the death, bankruptcy or retirement or, in the case of a body corporate, the dissolution of a limited partner.
- The general or other limited partners cannot dissolve the partnership because a limited partner has allowed his or her share to be charged for separate debts or obligations.

A court cannot dissolve a limited partnership because a limited partner has been declared to be of unsound mind unless the partner's share in the partnership cannot be otherwise ascertained or realised.

69. Cessation of limited partnerships

A limited partnership ceases if there are no limited partners or the partners agree that it will no longer be a limited partnership (in which case the business, if it continues to operate, will no longer be taken to be formed under this Part).

70. Registration of dissolution or cessation of limited partnership

The general partners must lodge with the Commission a notice of the dissolution or cessation as soon as practicable after dissolution or cessation occurs. Failure to do so is an offence punishable by a fine of $1 250 or an expiation fee of $160. The Commission will then record the dissolution or cessation in the Register.

71. Winding up by general partners

Any winding up is to be carried out by the general partners unless a court otherwise orders.

DIVISION 7—MISCELLANEOUS

72. Signing of documents to be lodged with Commission

This makes provision for the signing of documents by authorised persons or for acceptance of documents where it is not possible to have them signed by the appropriate person.

73. Model limited partnership agreement

The regulations may prescribe a model limited partnership agreement.

74. Certain convicted offenders not to carry on business as general partners

A person who has been convicted of an offence in connection with the promotion, formation or management of a body corporate, an offence of fraud or dishonesty punishable by imprisonment for at least three months or a prescribed offence against the *Companies (South Australia) Code* or the *Corporations Law*, must not, within five years after the conviction or release from prison, continue or commence business as a general partner without the leave of the District Court. The penalty for this offence is a fine of $5 000. The Commission must have notice of any application to the Court and may be represented at the hearing.

If the Court grants leave, it may impose conditions and breach of the conditions is also an offence punishable by a fine of $5000.

75. Identification of limited partnerships

A limited partnership must identify itself as such on any documents described in this provision and must display its certificate of registration. Failure to do either of these things may incur a fine of $1 250.

76. Registered office

A limited partnership must keep an office to which all communications may be addressed in accordance with this provision. Failure to do so may incur a fine of $1 250.

77. Service

A notice, process or other document may be served on a partner at the registered office of the partnership.

78. Entry in Register constitutes notice

An entry in the Register of any fact constitutes public notice of that fact.

79. Giving false or misleading information

It is an offence to provide the Commission with false or misleading information (and this is punishable by a fine of $5 000).

80. Statutory declaration

The Commission may require that a document be verified by a statutory declaration.

81. General power of exemption of Commission

The Commission may extend any limitation of time or exempt a person from an obligation under the Act.

82. Immunity from liability

Immunity from liability for persons engaged in the administration or enforcement of the Act is provided (but such liability lies instead against the Crown).

83. Regulations

The Governor may make regulations for the purposes of this Part.

Clause 10: Further amendments of principal Act

This clause provides for the Statute Law Revision amendments set out in the schedule.

Clause 11: Amendment of Business Names Act 1996

This clause makes two consequential amendments to the *Business Names Act 1996*. The first provides that notice of a change of registered particulars given to the Commission by a limited partnership under the *Partnership Act 1891* will also constitute notice for the purposes of the *Business Names Act 1996*. The second amendment provides that limited partners are not taken to be "carrying on business" in the limited partnership for the purposes of the *Business Names Act 1996*, so that the limited partners will not need to be registered as proprietors of a business name under that Act.

SCHEDULE

Further Amendments of Principal Act

The schedule makes various statute law revision amendments to the principal Act.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

STATUTES AMENDMENT (COMMUNITY TITLES) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Statutes Amendment (Community Titles) Act 1996. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

The Community Titles Act was proclaimed to operate from the 4th November 1996.

Twenty-six applications for a variety of community titled development have been lodged with the Development Assessment Commission. These represent a wide range of developments proposed or in the process of being developed, ranging from conventional small scale residential schemes to innovative suburban infill, schemes including viticulture and aquaculture, rural and country living schemes and industrial estates.

It was originally envisaged that access to the Strata Titles Act would be limited from the 4th November to the completion of schemes which already had planning approval. During the public and industry education program prior to the commencement of the Act, it became apparent that there was a problem with the transitional provision proposed for the Strata Titles Act.

It became apparent that some developers first seek approval to construct a building then subsequently seek approval to divide the land by strata plan, not taking account of the Development Act facility for both approvals to be granted at the same time. As a result there was a possibility that some developers would have been caught with a building intended to be strata titled for which they had not sought subdivision approval. Had the transitional provision become operative, these developers would have commenced their scheme under the Strata Titles Act and then have completed the development under the Community Titles Act.

It had been the intention that existing developments would be completed under the same regime which they had started.

Taking these matters into account it was determined that the most appropriate course was to suspend the operation of the sections limiting the future operation of the Strata Titles Act, until they could be appropriately amended.

Consideration has been given to an appropriate form of transitional arrangement between the Strata Titles Act and the Community Titles Act.

This Bill will allow for a cut off date for new schemes under the Strata Titles Act where proceedings for the deposit of the strata plan have commenced before a date to be set by proclamation. The date will be set following industry consultation. Proceedings for the

deposit of a strata plan will be taken to have commenced either when application for subdivision by strata plan was made, or when application for approval to construct the building to be divided by the plan was made, whichever application was first.

The Bill is essentially technical in nature and will enable the smooth transition from land division under the Strata Titles Act to land division under the Community Titles Act.

I commend this Bill to Honourable Members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 41—Amendment of s. 8—Deposit of strata plan

Clause 2 amends section 41 of the principal Act in the manner already discussed.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

TOBACCO PRODUCTS REGULATION BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1225.)

The Hon. T. CROTHERS: Like others who have gone before me in this debate, I put a couple of matters on the *Hansard* record: first, I am a smoker; secondly, I am a civil libertarian; and, thirdly, I have always opposed the burning of the books on *Kristallnacht* in Berlin. Having cleared the decks with those statements, it seemed to me that I should pay a couple of tributes. On the third try, the governing Party appear to have got a Minister who, realising things were going terribly wrong, determined he would endeavour to fix it by listening to people—something the Government would have been well advised to do in the very first instance. To that end, out of the shambles that he was confronted with, he did try to make a reasonable fist of getting something—

The Hon. A.J. Redford: Which Minister are you talking about?

The Hon. T. CROTHERS: The final straw Minister, if you like, the Deputy Premier. He did endeavour to make as good a fist as possible but, unfortunately, it is almost too difficult to understand that you cannot make a silk purse out of such a sow's ear as what this Bill developed into. Having said that, I further pay a tribute to my parliamentary colleague, the Hon. Jamie Irwin, who in his contribution last night opposed the Bill, its contents, and what the contents indicated that the Bill stood for. That takes an individual of some rare courage and, whilst it is fair for me to say that I have not always agreed with my colleague the Hon. Mr Irwin in a philosophical way, I have never ever ceased to be an admirer of the courage he displays when he feels a principle is being affronted and I dips me lid to him in respect of that matter. I know he is a man of strong conviction, a man probably in the Asquithian mode, a man who believes that not only is there nothing wrong with having some personal wealth but that, coupled with that, those individuals—and there have been a few of them in my time as a member—also perceive that they have a duty to the people whom they represent and, moreover, a duty to the land, territory, State or country in which they reside. I commend him for that exhibition of principle that we all witnessed here last night.

I should also declare that I am a former Secretary of the Liquor Trades Union, the major union within the hospitality industry. It seemed to me that the Bill was based on a number of erroneous conceptions. It appeared to me, when I look at the Bill, that the clauses contained in the Bill are based on someone's idea of the Licensing Act as it existed some 10 or 15 years ago and, moreover, not just on the Licensing Act, but on the *modus operandi* of trading that then existed in the hospitality industry right through hotels, clubs, restaurants and motels as well, something which is very often forgotten.

In those days, 10 or 15 years ago, licensed premises were going down the drain, particularly hotels, at a great rate of knots. You could look at the Licensing Court lists each month and find that, on average, some 30 hotels or more out of a total of just in excess of 600 in the State had changed hands. They changed hands because the Government of the day, the Liberal Party when they were in Government, and my own Party, got the tenets of the Licensing Act wrong when they allowed licences to be issued at a rate of knots and our population could not sustain the number of licences being issued. As I said, some 10 years ago hotels were going rapidly down the tube and there were even some bankruptcies amongst old established clubs.

It is quite obvious to me that the framers of the Bill do not understand the nature of the industry with which the Bill deals. I am not personally opposed to having separate areas for smoking. I would even light the blue fuse on the Hon. Mr Davis myself if he continues to be jocular about the matter—

The Hon. L.H. Davis: Is it sinful to smile?

The Hon. T. CROTHERS: Yes, I would imagine your smile would be simple in keeping with the rest of your character. There are a number of different grades of hotels, clubs and motels and even restaurants (about which I have lesser knowledge) within the industry. Yet this Bill seeks to set up a single set of rules in respect to smoking and non-smoking areas that are designed and aimed at fitting all layers of difference that exist within the industry. I tell members—and I speak from many years' experience, 25 or thereabouts, within the industry—that it is not possible to do that.

My friend and colleague the Hon. Angus Redford—again, a man to give some credit to in respect of the forthrightness of part of his contribution in this Chamber—made the point that if this Bill goes through, even in its watered down amended form, it will be an absolute field day, a fiesta for the legal profession. That happened to us when we were in Government in respect of the Workers Compensation Bill, and people would know that my view on that—and the people in the gallery would know my view—was that that, too, would be a fiesta for the legal profession, because every day of the life of that Bill before it came into Parliament there were 20 or 30 amendments. The following day there would be another 20 or 30 amendments. There would be amendments on top of amendments on top of amendments.

The same thing has occurred in respect of this Bill which originally stood in the name of the Minister for Health in another place. Even if it goes through as is, as sure as God made little apples, we will have to revisit this Bill. In the meantime, the industry, that is, the hotels, clubs and restaurants, will be out of pocket to the extent of many hundreds of thousands of dollars in legal costs—all to satisfy the whim, it would appear, of some zealot in another place who got the idea that this is a good thing to do at this time, so let's do it irrespective of anything else.

The only thing I can say about zealots is that the last time they reached a page of history, the Roman legion decided the issue with the sword at the Hill of Massada in about AD70. I have no doubt that there will be Government backbenchers who, as a result of this Bill, will be put to the electoral sword. That is what this Bill has done. I had people ring me tonight who had voted—

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: I thought it was you in drag, actually. They had voted for the Liberal Party at the last election, and they told me that they were supporters of areas of non smoking being created, but the way—and these are their words—the Government had squibbed the issue they could never ever vote for them again and trust them at the same time.

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: Okay, we all may giggle, but at a time coming into an election, you could not have done a worse thing, because the licensed clubs—and there are over 1 300 of them—reach out, as do the hotels, into every one of the Lower House electorates, and you will of course bear the brunt of that, as the initiators and progenitors of the Bill.

As I said, it appeared to me that there was a great lack of depth of knowledge of how the industry is operating today, and that the Bill was framed ten or 15 years ago when the industry was going down the tube, when all hotels that were worth their salt (as it was common practice) used to open for lunch from 12 to 2, and then put on tea from 6 to 8. They found that that was not going to run the drum, so certain changes took place in the Licensing Act that allowed hotels to trade in respect of the serving of meals almost for as long as they want. Other matters were introduced—you could buy a toasted sandwich and all sorts of things over the front bar counter.

So, the hotels had taken on a new life. They had gone from simply just being beer and drink halls to being beer and meals halls, and they had to do that to try to survive. They then extended out into many functions. Those are matters that will be touched by the vagaries of this absolutely outrageous, ill-thought out Bill that is now before us.

The Hon. R.I. Lucas: I thought you were supporting it.

The Hon. T. CROTHERS: No, I am not. If you thought I was supporting it, friend Lucas, I am not surprised we have this sort of hybrid Bill up in front of us now.

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: If I were you, I would make the sign of the cross about the next election. As I said, the industry is not all one. There are a number of different segments in it. For instance, the *modus operandi* of a golf club differs from that of a rowing club, which differs from that of a bowling club, which differs from that of community clubs, football clubs, soccer clubs, cricket clubs, ethnic clubs, and maybe another myriad multiplicity of half a dozen types of other clubs. But the *modus operandi* is different for each of those operations.

The same applies with respect to hotels—there are accommodation hotels, family type hotels, the traditional type hotel, the meals hotel, the gaming hotel, guest houses and motels and probably others that I have left out. The problem with all this is—and I keep coming back to it—you have tried to come up with one set of rules to fit all those different segments of operational *modus operandi* and those different stratified types of hospitality industry outlets.

I know, for instance, of a little hotel—I do not even know if it is still in existence—called the Launceston, around in Waymouth Street. It has a front bar, and you could not swing a cat behind the bar. What will it do if it has to comply with this Act? What is the definition of a meal, which is the linchpin of all you are trying to do—and you probably pointed a loaded gun at the industry's head anyhow, because you knew you had the support of the Democrats and you thought you had the numbers to be able to ram it through? Well, you may not have. There may be some with more commonsense than they have interest in their own pre-selection on your side of the House. We will wait and see with interest.

You have tried, heavens' hard, to bring the Bill to a point where all those singular clauses in the Bill will cover the multiplicity of different and differing types of operation that exists within the industry. I hasten to add that I do not even know what the impact will be in respect of tourism in this State, or in respect of conventions. I see that the Government has created a new position in respect of Special Events, headed up by Bill Spurr, an old friend of mine—and a better or more capable man the Government could not have appointed.

The Hon. T.G. Roberts interjecting:

The Hon. T. CROTHERS: Well, he was getting there when I last spoke to him. He is a most capable man who was head of the Special Events group that the Government, to its credit, set up. That was after we lost the Grand Prix. One of the things that might have tickled Bernie Eccleston's ivories might have been the fact that his number one car at the time was not to be allowed to advertise Marlboro cigarettes. That is just the sort of thing that happens when you make legislation on the run, when you get something that you think is a good idea that should be put in place, but you do it in such a way that its consultation is limited.

I am not opposed to certain areas for smokers only in licensed premises, but there is still enough of the civil libertarian in me to say that anything which is done with such obscene haste must bear more careful scrutiny than that which has been allotted to the Opposition and other members by the Government of the day in this place. I spoke of the changes that were forced onto the industry. People have had to undergo the breathalyser tests, and they underwent a change in enjoyment patterns, where beer was no longer the drink of choice on evenings of entertainment, and wine—

The Hon. A.J. Redford: Only for some.

The Hon. T. CROTHERS: That may well be, but the statistics show there is a fair majority of the 'some' that were switching from beer to wine. For all of those reasons—

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: Just listen and learn. For all of those reasons, the industry was forced—I think some publicans went bankrupt; so did some clubs—to undergo fairly horrific change in order to survive. There were those of us here when the gaming machine Bill was introduced. Albeit it was a conscience vote all around, and it passed in this Chamber by 11 votes to ten—and I now declare to anybody who wants to listen that I managed to convince a 'No' voter to vote 'Yes', in my usual quiet way. I think that is a matter for the *Hansard*. If he did put that in the *Hansard*, I was his excuse.

Having said that, there were horrendous changes which required an enormous amount of expenditure. For instance, bottle shops had proliferated. They had gone to about 75 or 80, basically in the metropolitan area. They were buying licences that were almost rendered redundant away down at Nundroo and bringing them up to Adelaide, and reactivating them up here. So, then the hotels had to enter into an enormously expensive program of building appropriate bottle shops or bottle barns onto the hotel. Gepps Cross is one I can recall off the top of my head.

They were all done at enormous expense, but still many licences were up each month, and still the odd club was going to the wall by way of bankruptcy. When the gaming machine legislation came up, as one who understood the industry, as

one who understood that in a State that is bereft of large employers and in a State that is bereft of industry in rural areas, the hospitality industry represented the one hope this State had if it could survive in respect of maintaining decent levels of people in employment. So, I had no hesitation, nor indeed did the Hon. Mr Lucas or the Hon. Ms Laidlaw, who crossed the floor and voted with the Government at the time—I give credit for that. Some of our members voted with the Opposition and that was their business and their right.

The Hon. A.J. Redford: Who was that?

The Hon. T. CROTHERS: I will not say—look up the *Hansard* or see me later and I might tell you. That was their right. I am a civil libertarian of, I hope, some order, and that is why I am opposed to this Bill. The way in which this Bill has been handled is outrageous.

Deputy Premier Ingerson tried to make a good fist out of a bad lot, but he was not able to do that in respect of the circumstances with which he was confronted. The Hon. Angus Redford is quite right. He said that there would be litigation *en masse* emanating from the loins of this Bill. If this Bill goes through tonight you will cost the industry hundreds of thousands of dollars in determining questions of merit or substance before the courts, because there is no definition as to what constitutes a meal, for heaven's sake! If I go to the front bar of a hotel and have a bag of chips, a pie with sauce or a toasted steak sandwich, is that a meal?

Members interjecting:

The Hon. T. CROTHERS: Well, is it? You show me where, given the arbitrary powers that the Minister of Health insists on maintaining, he could not use that if he wanted to get at somebody in respect of pay-back time. Perhaps not even this present Minister but some future Minister may want to use those powers. Given that he holds a Lower House seat—or any Minister with that portfolio who holds a Lower House seat—how great is the temptation to be doubly helpful to licensed premises in his or her electorate, whether they be a member of the Liberal Party or the Labor Party? The last time I saw such arbitrary powers (and members may have wondered at the connection), they were possessed by a fellow in Nazi Germany in the 1930s who had all the books on knowledge burnt in *der Kristallnacht*. Again we see those arbitrary powers being given to an individual who has already shown his intent by the way in which the Bill was initially crafted. That should be warning enough for us all.

I now refer to this so-called passive smoking thing. The union had ideas about passive smoking because, if anybody should be concerned about it, it was the Liquor Trade Union on behalf of its members, who are more exposed to it than is any other member of the community. Was the union consulted by the Minister? In the immortal words of the Hon. Jamie Irwin, not on your nelly! That would have been too proper a course for this Minister to pursue. They are the people for whom, if passive smoking is carcinogenic (and there are 20 000 of them, with 10 000 working in the bars), the effect would be the greatest.

The Hon. R.D. Lawson interjecting:

The Hon. T. CROTHERS: I have said, in response to your asinine interjectory comment, that I am not opposed to certain areas being set aside as smoke free areas. Your amendments designate a rope being put in place. Maybe that sort of amendment may sit well in the Lok Sabha or the Parliament of India, where the use of the Indian rope trick has been known to people of that ethnicity over the years, However, I cannot see what bloody good it is here—not for the life of me! It is a face saving measure for your back-benchers, as they crumble day by day to the pressures that come upon them, who are falling by the roadside one by one—

The Hon. L.H. Davis: Are you giving out Kleenex tissues tonight?

The Hon. T. CROTHERS: I will give you my box as I am sure that I will have you in tears in a minute. They fall by the wayside one by one, as the Deputy Premier on his road to Damascus had this blinding flash of light and said, 'Two into one does not go—we have to do something.' But the Minister for Health said, 'No, no; you cannot do that. I am a doctor of medicine, and I have to have some respect.' He almost sounded like a Mafia Godfather from what I hear, so much was the respect that he wanted. He was going to allow an important employing part of our community—an employment area that employs 20 000 Australians—to go down the drain just so that his ego did not get dinged. Whatever you do you, cannot make a silk purse out of a sow's ear—such is this Bill.

Here is the humbug: the emissions from car exhausts and the emissions from fossil fired power stations are far more carcinogenic than any act of passive smoking could ever be.

The Hon. R.D. Lawson: You want to ban cars in restaurants as well?

The Hon. T. CROTHERS: I would not ban them if you were a customer in it—I would point them in the right direction. Because this State has Mitsubishi and General Motors-Holden's, and because that industry employs some 30 000 people and we have seen the cartwheels that the Government is doing—and rightly so, in my view—in respect of any further diminution of the tariffs by the Federal Government, nothing was done about the emissions emanating from car exhausts, because that would not have been a politically or an electorally wise thing for the Government in this State to do. From this Bill the Government has jumped from the frying pan into the electoral fire. There is no doubt about that—you have lost ground. You have lost electoral ground.

So it is an act of hypocritical humbug to put the knife into what you perceive to be the soft underbelly, where you can get away with doing a bit of ripping and cutting and stitching and suturing, but you will not touch the car industry. You have done yourselves an enormous disservice.

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: I am a smoker, and I would not encourage anyone to smoke, if that is what you are asking me.

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: It does not matter what I think. If people had come to me in relation to the Bill, I would have made this comment, as did Jamie Irwin: that the industry should have been given three years to self regulate by a Bill of this Parliament with a sunset provision in it and, if at the end of three years they had not enacted sufficient provisions, this Parliament should well and truly have acted. But that is what you get when you do not consult. Due to the lateness of the hour—I know that other members are to speak—I do not have a great deal more to say. However, I want to make the point that, whilst gaming machines are a big money spinner, hotels, because of the way in which the Act was couched, had to spend fairly sizeable sums of money, first, to buy the machines, and, secondly, to create a gaming room. We no sooner introduced that major change, which has kept the industry very much alive, and what happened? We

got this absolutely unheard of change being brought in by our present Minister for Health.

I cannot for the life of me understand it. Irrespective of our passions or personal feelings, if this Parliament is to maintain even a skerrick of responsibility, even a skerrick of having the people give us some respect, the best thing that could happen to this Bill is for it to be defeated and sent to the drawing board, only on this occasion I would urge the Government to consult far, wide and long with respect to any measures that it might wish to propose. If the Minister's pride will allow him, he should go back and have a real look at the Bill. I conclude with respect to the contribution made by the Hon. Sandra Kanck and in relation to that to be made later on tonight by her Leader, the Hon. Michael Elliott.

The Hon. M.J. Elliott: If I ever get a chance!

The Hon. T. CROTHERS: You might: if you don't keep interjecting you will probably be all right, Michael. There is on the Notice Paper another Bill which talks about the decriminalisation of marijuana, and I will be supporting that—and it is a Democrat Bill. On the one hand, we have the Democrats wanting to ban smoking here and ban smoking there and, on the other hand, they want to decriminalise marijuana. The Hon. Mr Elliott is a very good wordsmith and he will endeavour to spin that away with the use of superior wordsmithing, but it will not stand the test.

I support the decriminalisation of marijuana. I did say that I was a civil libertarian; I am not an electoral animal. I do not set my sails for what popularity it may or may not gain me out in the electorate: I set my sails for what I think to be just, fair, right and proper and, above all, to give accountability to all South Australians—not the upper middle class from whom these moves generally spring and flow. I would ask this Council, in the interest of its reputation, to reject this Bill, send it back, revisit it, consult with industry and come up with something meaningful and purposeful, not this rag bag of amendments on amendments on amendments.

It is all up when this State has to yield to the fact that a Minister feels his ego is so bruised that he will not give in, when even to give in would be the better part of valour. The fact that he wants to retain these draconian powers without any avenue of appeal is sufficient in itself to paint a character picture of a Minister for whom I used to have some considerable time. I commend the defeat of the Bill to the Council.

The Hon. M.J. ELLIOTT: In supporting the second reading, I do not intend to do a clause-by-clause analysis: that is something that is being handled by the Hon. Sandra Kanck, who is handling the Bill for the Party. However, I intend to address some of the over-arching issues and a few things that were raised by other members in this place. There is no doubt that tobacco is a drug. There is no doubt also that tobacco companies are drug dealers.

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: A pharmacologist will make it quite plain that tobacco is a drug: I do not think one would find too many pharmacologists who would tell you that H_2O is one. Tobacco is also a legal drug—and I am not suggesting that it should become illegal. Tobacco, like many drugs, is clearly harmful. I find it absolutely extraordinary, but I suppose not surprising, that tobacco companies still continue to peddle some pseudo science suggesting that it is not yet proven that tobacco is harmful. That is not something which is believed by any reputable scientist or group or body representing scientists or those people involved in medicine. It is beyond dispute that tobacco causes significant harm.

We always get the old, tired example of great uncle somebody who lived to a very old age and smoked. That is an experiment that cannot be repeated because one cannot give the old fellow his life again to see how long he would have lived if he had not smoked. My grandfather, who was a heavy smoker, died in his 70s. I note also that late in life he suffered severe diabetes and had a leg removed, and I will never know how much is later ill-health was directly linked to tobacco. However, there is a very real possibility that there was a linkage between the two. Scientists are in no doubt that tobacco, on average, reduces both the length of one's life and, importantly in the later years, the quality of one's life.

I defend the right of adults to make decisions, as long they do not impinge upon others. I am a civil libertarian, as the previous speaker claimed to be. A decision made by an adult person to smoke tobacco is one which they are entitled to make. However, any impact that a tobacco smoker has on others is one in which Parliament and society as a whole has a right to intervene.

We must distinguish between a person who chooses to smoke in their own home and one who chooses to go into a public place and smoke in the presence of others. It would be fair to say that there is still a great deal of scientific work going on in relation to the impact of sidestream smoke and how strong a linkage there is between sidestream smoke and cancer, although the evidence, as I have read it, certainly on balance, is leaning towards the fact that it does make a contribution, although certainly nothing like the contribution it makes to people who directly smoke. I suppose it is the difference between inhaling air containing exhaust smoke and actually putting your mouth over the exhaust pipe and sucking it in directly. Clearly, the person who is putting the burning leaves into their mouth and sucking the smoke in is getting a much larger dose and therefore there is a much larger impact.

Despite that continuing scientific debate there is absolutely no doubt that sidestream smoke has other significant health impacts. I know of asthmatics who have had serious episodes and attacks after being in environments where there is tobacco smoke. I know of other persons with other chronic lung conditions who have had life-threatening episodes as a consequence of being exposed to even low levels of tobacco smoke in terms of the reactions it sets off. While the people who suffer that are a relatively small percentage of the population, they are certainly not an insignificant percentage and it is beyond dispute that there are people who are seriously affected by sidestream smoke. I am not just talking about the minor irritation when someone's smoke is getting up your nose and you do not like it—it is much more than that.

So, where this Bill seeks to intervene in terms of where a smoker impinges on other people, the civil liberty argument then does not say that a person has a right to do what they like. The argument is that you have a right to do what you like, as long as you do not impose on others. That is where the line is crossed and it is one of the issues that is being debated within this legislation. I am amazed that the Opposition has taken a contrary view to that because it was a Party that used to pretend to stand up for civil liberties and it also understood them. What John Cornwall would have thought if he had heard the performance from the current Labor Party would be quite amazing.

The community also has a legitimate interest in relation to smoking, not only in terms of the effects on the non-smokers but the effects on smokers themselves becomes a

community matter when the community ends up footing the health bill. The evidence is quite plain that the sorts of chronic illnesses—emphysema and the like which are linked with tobacco smoking—are very expensive chronic conditions over a long term which will produce significant costs not just to the individual who suffers from them but the community as a whole. I will not use that as a justification to ban smoking but I will use it as a justification to perhaps put a higher tax on high tar, high nicotine cigarettes rather than on low tar and low nicotine cigarettes. The State has already done something similar and it did so under a Labor Government. It put a different tax on high alcohol beers from that it put on low alcohol beers. The Labor Party had no difficulty in doing that in relation to beers and for good health reasons. It would be absolutely consistent to do the same with tobacco and obviously it would be inconsistent not to do so. The Labor Party could see the sense of it in relation to alcohol and suddenly its good sense breaks down.

The Hon. T.G. Roberts: The medical arguments differ on the comparison.

The Hon. M.J. ELLIOTT: I do not agree with that. While this law relates largely to tar, I believe it is also hoped that perhaps nicotine might decrease with it, but there is plenty of evidence on the record to show that tobacco companies have played games with nicotine levels in cigarettes. There was a time when they started reducing nicotine levels and then suddenly discovered that that was not such a good idea and jacked them back up again. It was a deliberate company policy to do so. While some people might expect nicotine levels might decline with the tar, I do not think the tobacco companies would take such a risk that the addictive parts of the cigarettes would be reduced in any way. They are likely to make sure that they are sustained at a level to maintain the addiction because they are, after all, drug peddlers and all drug peddlers need people to keep coming back and buying their product.

The Hon. Trevor Crothers raised the question of cannabis in relation to the Bill and seemed not to understand how I could be moving for a regulated availability model for cannabis, and yet supporting this Bill. In fact, I am absolutely consistent because, if you look at the Bill I introduced in relation to cannabis, I say, 'No advertising,' which is the position now with tobacco and the position which I promoted not long after I came into Parliament when I moved a private member's Bill in that regard. There should be no availability to minors and we have supported strong penalties in relation to minors and the Hon. Sandra Kanck is addressing that issue further in amendments. I have said, 'No consumption in public places at all—in any public place.' I am saying that, if a person chooses to smoke cannabis, they are allowed to do so, but essentially they will do so in the privacy of their own home or the home of friends, but they will not be doing it openly in the community. I think I am remarkably consistent.

I am recognising that tobacco is a drug, that cannabis is a drug and that both of them are harmful, that adults rightly or wrongly are making the decision to use them and that we should not seek by use of the law to stop them from using it. It is something which would fail, in any case. We should be seeking to set up a set of laws that will not allow people, when using these substances, to interfere with other individuals and certainly not to have an atmosphere which in any way makes them appear attractive and, therefore, to be condoned by society as a whole.

The Hon. T.G. Roberts: On what basis would you tax marijuana?

The Hon. M.J. ELLIOTT: I have already said that I believe the Government should have total control from beginning to end. It should be grown under licence and sold only through pharmacists. The Government would set the price. Yes, the Government would tax it because it would price it at such a level that it would not be cheap and encourage people to use it.

The Hon. T.G. Roberts: You would not have a difference in price between good and bad heads?

The Hon. M.J. ELLIOTT: One would assume that the quality would be fairly consistent. The point I am making, quite contrary to the claim of the Hon. Trevor Crothers, is that I am one of the consistent ones, yet there are other members in this place who are strongly defending tobacco and to be able to use it anywhere, any time, and blow it in someone's face, yet they still want to send people to gaol for using another drug which is widely used in our society. He even decided to bring class into it. The Hon. Trevor Crothers needs to realise that it is working class kids who are going to gaol in relation to cannabis because they cannot afford to pay the expiation notices and they are going to prison and ending up with the criminal records at this stage. The middle and upper class kids are not getting criminal records. They are using it just as heavily but they are not ending up with the criminal record. I believe his attacks were extremely misplaced.

As I said, it was not my intention to go through the finer detail of the legislation, which is being handled by the Hon. Sandra Kanck, but I wanted to touch on those issues. Also, the Hon. Paul Holloway started with a little tirade about taxation. I find it extraordinary that a Party in Opposition that is complaining about our schools and hospitals being run down, that inadequate money is being spent on a number of things, is not prepared to question where the money is coming from. The Opposition seems hell bent, no matter what, to see that the Liberals keep their promise about no new taxes and no tax increases. If the Opposition is honest, all it is doing is playing politics with the tax issue.

That is what the Opposition is doing and it is about time that the Opposition woke up to the fact that Australia is virtually the lowest taxed nation in the OECD and that is why Australia is the third lowest spender on education and one of the lowest spenders on many other forms of public service as well. It is about time the Labor Party got off this band wagon that the Government promised no new taxes and charges. Certainly, if there is a promise that I am prepared to let the Government break that would be the one because, frankly, the tax base at both a national and State level has got so low that we cannot maintain the level of public services that all people in Australia deserve.

After all, that is why you pay taxes: to provide essential services. So, when the Hon. Paul Holloway started to go on about taxation, he was playing nice easy politics—it was a nice easy shot, a line which the Labor Party decided to take from early in the debate. For the most part, members of the Opposition have not entered into the debate as a whole. I understand from private communication that they have indicated to Sandra Kanck that they will not support any of her amendments, and they have very few amendments of their own. It seems to me, that they have adopted an extremely dishonest position. They have not looked at this Bill in its entirety and tried to make it a better piece of legislation. They have tried to take what they see as the high ground and attack any new tax impost. That is just cheap politics. It is a great pity that they did not look at the legislation in more depth,

because I know for a fact that the Labor Party of 10 years ago would have introduced legislation similar to this Bill and, if anything, made it more coherent. I agree that the legislation could be better. That is why amendments are moved: to make legislation better. That is what the Labor Party should have done if it were honest rather than merely jumping into the trenches and sniping away.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

Returned from the House of Assembly with amendments.

SUBORDINATE LEGISLATION (COMMENCEMENT OF REGULATIONS) AMENDMENT BILL

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

Consideration in Committee.

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

That the Legislative Council's disagreement to the amendments be not insisted upon.

This is part of a process to take the matter to a conference. Subject to the decision of the Committee, it is intended to take the matter to a conference tonight.

Motion negatived.

A message was sent to the House of Assembly requesting a conference at which the Legislative Council would be represented by the Hons. M.J. Elliott, K.T. Griffin, R.D. Lawson, Carolyn Pickles and P. Nocella.

TOBACCO PRODUCTS REGULATION BILL

Adjourned debate (resumed on motion).

The Hon. CAROLINE SCHAEFER: My contribution to this debate will be mercifully short, because it seems to me that if every word that has already been spoken on this issue were a cigarette we would all have enough supplies to be chain smokers for the rest of our life, and there is very little that I can say that has not already been said. However, this issue has appeared to raise enough emotion that I think most of us should put our position on the record. Obviously, this Bill was debated long and hard in the Party room, and the majority won. I do not propose, therefore, to oppose it in this place. I have no concerns whatsoever with the increased tax on high tar cigarettes, and I see very little difference between that increased tax and the increased tax on high alcohol beer as opposed to low alcohol beer. I do not believe that an increased tax on high tar cigarettes will stop people smoking. However, it just may encourage them to smoke a lower tar cigarette, so as such I have no problem whatsoever with that part of the Bill.

I also say at the outset that I am a non-smoker. I have friends who, like those of the Hon. Michael Elliott, are asthmatics who definitely put off having a meal and socialising with their friends in public places because of the effect of cigarette smoke on them. At the same time, I suppose that I am a civil libertarian, and I believe in the right of people to indulge in what is a filthy and unacceptable habit, if they wish, as long as that right does not impinge on the rights of others.

In the end, I think this is a matter involving occupational health and safety. It is not really about the social nuances of those who like or dislike cigarette smoke or those who decide that they will or will not eat in an area where people are smoking; it is about the staff in those areas who are exposed to passive smoking over a long period of time during their employment. Sooner or later, the hospitality industry will have to come to terms with the threat of legal action on the part of those who are exposed to passive smoking over a long period of time.

I would have preferred that self-regulation remain the order of the day. I am pleased that the introduction of these laws will not take place until the end of 1998, as hopefully that will give the industry the time necessary to adapt to them. Rather, my concerns lie with some of the definitions in this Bill as they apply to the areas that I know best: that is, small licensed community clubs, etc. in country areas, particularly, where the majority of the staff are voluntary and the people work there on a very low turnover. They make a profit which goes back into their community or sporting club by virtue of the fact that they provide most of the labour themselves.

In those clubs there is usually a kitchen at one end with a bar along the side and the eating area in front of that. It is difficult then, in my view, to define what is or is not an eating area in such a place. I must admit that I was reasonably happy with subclause (4) when it was indicated that smoking would be banned during the course of a meal. However, there are now amendments which would indicate that those same clubs will now have to apply for an exemption, and it appears to be a very grey area as to how they will or will not get that exemption.

I am a little bemused by the definition of a meal: '"Meal" means a genuine meal eaten by a person seated at a table.' So, if I go in at half time to get a pie and chips and I stand up, the people in the room can continue smoking: if I sit down, they have to put out their cigarettes. Things like that seem to me to be quite nonsensical. I do not know how they will be enforced. I was reasonably happy when the Bill suggested that an area would be non-smoking from, say, 6 o'clock in the evening until 9 o'clock in the evening. However, now smoking will be banned when meals are available or being consumed, which could conceivably be all day in what is, essentially, a sporting club. Does that therefore mean that those sporting clubs stop serving meals altogether—which means they no longer become a family or community gathering spot—or does it mean that those same volunteers who staff the place have to go outside every time they want a cigarette?

I have some real concerns with areas like that. I am less concerned with larger areas but, again, there is an exemption if you are prepared to rope off an area and if you are prepared to install sufficient ventilation. What is sufficient ventilation? How much is it going to cost? In the small clubs, in the Italian clubs for instance, where there is a culture where people enjoy having a cigarette, what then happens when they have to come up with $30 000 to $40 000 worth of air-conditioning in order to be able to enjoy a meal that they have probably cooked and served themselves? So, I have some real concerns with that section of the Bill.

In the main, I support it. In the main, I support what I believe is the intent of the Bill, and that is to provide smoke-free eating for patrons of what we would all describe traditionally as a restaurant. However, I have real difficulties

with the interpretation of what is an eating area; what is a meal; what is a designated area? 'A bar or lounge means an area that is primarily and predominantly used for the consumption of alcoholic drinks rather than meals.' Does that mean that if I decide to call the whoop whoop footy club a bar, I can then go and have a meal without having to ask the patrons by the bar to put out their cigarettes? Or does it mean that I am in contravention of this Act? I believe it raises more questions than in fact it provides answers.

The Hon. T.G. Roberts: What if you eat the pie standing up and sit down to have your chips?

The Hon. CAROLINE SCHAEFER: That is right: what if I eat my pie standing up and sit down to eat my chips? Then do we put out half the cigarette? As a matter of interest, I do not agree with the Hon. Mike Elliott in his push for the legalisation of marijuana. I believe we have enough legal drugs which are unhealthy as it is. However, this is a matter of principle and I would like to make the Parliament aware of the fact that the current expiation fee for smoking a marijuana joint, which is an illegal substance in this State, is $50, plus a $7 victims of crime levy. Under this Act, the expiation fee for smoking a tobacco joint, which is a legal substance, will be $75, plus a $7 victims of crime levy. So, there seems to me to be some contradiction between an expiation fee which is higher for a legal substance than it is for an illegal substance. I will not continue longer because I believe enough has been said on this, and certainly more will be said in the Committee stages. However, I hope that the Minister will be able to provide some answers to the questions that I find particularly puzzling.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): Can I thank all honourable members for their comprehensive contributions to the second reading of the Bill over the past 24 to 36 hours. I am sure it will be the forerunner to a very interesting Committee stage of the debate, and I look forward to it.

An honourable member interjecting:

The Hon. R.I. LUCAS: Because I am a masochist.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: We will have copious quantities of advisers. If I can respond to the Hon. Caroline Schaefer's last entreaty to the Minister, that she hopes that the Minister can answer her questions: my answer to the honourable member is that I hope so too. I look forward nevertheless to trying, and I am told that I will have learned advice to assist me through the Committee stages of the debate.

Given the nature of the second reading debate, that is, it has been compressed into last evening, a little bit this morning and then this evening, it has not been possible for officers to provide answers to all of the questions that have been postulated by members during the second reading debate. The Hon. Sandra Kanck was kind enough to give me a written copy of her questions some days before she actually delivered them, so in the honourable member's case we have been able to do some preliminary work and present some answers for her. However, not all of them are responded to, and I am sure she will have many further questions, and I know that other members have questions which have been placed on notice in the last 24 hours.

I indicate to those honourable members that, if the questions are not responded to during the second reading reply, could they remind me generally at the appropriate clause during debate in Committee and I will endeavour to respond at that time. I have spoken to the Hon. Angus Redford; there were some questions in his contribution, in particular in relation to Living Health, in relation to which we may not be able to provide immediate responses in Committee. These questions may well require us to undertake some inquiry of Living Health. Certainly, we would be prepared to undertake to write to the honourable member in relation to those matters.

We are here to serve, and I have now been given three or four pages of early responses to the Hon. Mr Redford's questions, so I will put them on the record in a moment. Some further follow up may be required. Before doing so, can I indicate that I do not intend to respond to a lot of the political rhetoric that has been thrown across the Chamber from the other side. However, I want to rebut one particular aspect. The Hon. Ron Roberts attempted to make great play, in a political fashion, I suppose, of the involvement of, firstly, two Ministers, the Hon. Michael Armitage and the Hon. Stephen Baker—the Hon. Stephen Baker in relation to Treasury matters and the Hon. Michael Armitage in relation to health matters, and then the involvement of the Deputy Premier in relation to further discussions on the legislation.

I do not want to spend a lot of time on this issue, but it is common knowledge around Parliament House that there have been huge barneys within the Labor Caucus between the smokers and non-smokers on this issue. The fact that the shadow Minister for Health (Lea Stevens) has been strangely silent in relation to this issue is an indication that her particular views were snowed in the first instance by a little faction of John Quirke and Terry Cameron, who had his nose in the event in the early days. It was known that Lea Stevens' views, which were sympathetic towards the legislation, were not supported by John Quirke and others within the Labor Caucus and there was a healthy barney within the Labor Party on the issue.

The Hon. L.H. Davis: We had two phone calls from Ron Roberts's constituents.

The Hon. R.I. LUCAS: Yes, we had two phone calls; we were flooded with phone calls, as the Hon. Ron Roberts would say. There was an avalanche of phone calls on this—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: The fact that the Hon. Ron Roberts is handling the legislation in this place when normally health and treasury legislation is handled by the Leader of the Opposition in this Chamber is another indication—

The Hon. Anne Levy: It is not a health issue: it is a tax issue.

The Hon. R.I. LUCAS: Who handles Treasury? I do not want to pursue the issue, but the Hon. Ron Roberts introduced this in relation to the whole debate. I do not intend to respond in detail, but for every healthy discussion that exists within the Liberal Party on this—and I am the first to acknowledge that we have a variety of views within the Liberal Party; our members are free to express those views publicly.

The Hon. L.H. Davis: Why did they put up Ron Roberts as the Leader? Because they wanted someone who was long on rhetoric and short on facts. He fits the bill.

The Hon. R.I. LUCAS: Exactly; he would go up in a puff of smoke. In the Liberal Party we have a range of views and Liberal members are entitled to express those views not only within the joint parliamentary Party but, as the Hon. Jamie Irwin and others have indicated in the debate in this Chamber, they are also entitled to express those views publicly. Although the Hon. Ron Roberts pretends otherwise in relation

to his own Caucus, that there has not been a healthy divergence of views within his own Caucus in relation to this issue, he knows that is not true. He only has to listen in the corridors or in the Caucus, and I am sure in the Committee stage of the debate, to know the attitude of the Hon. Anne Levy and others within the Caucus on the issue.

I will not be diverted any further, other than to indicate that there are differences of opinion in all Parties in relation to this issue. I will respond to some of the questions that honourable members have raised. The Hon. Sandra Kanck asked in relation to clause 2:

> Why is section 47 given until the first Monday in January 1999 to come into operation, 22 months after this Bill has passed; why so much time?

As the Minister for Health explained in another place, the period between passage of the Bill and the implementation of section 47 will allow time for a public education process to be instituted to ensure that consumers, restaurateurs and owners of licensed premises were able to familiarise themselves with the requirements of the legislation. The intention is to protect public health rather than to pursue prosecutions. In this process, voluntary adherence to the principles of the Bill will be encouraged. This period will also allow the development of administrative processes and the processing of requests for exemptions. There was a question in relation to clause 29, as follows:

> Has the Government looked at putting any controls on tobacco advertising on the Internet?

The issue has been raised with the Government only recently. The Minister for Health will raise the issue with his State and Federal colleagues with a view to ensuring that, to the extent that it is possible, tobacco advertising is prohibited. The issue of legislation regarding Internet content is not yet clarified world-wide. In relation to clause 38 a question was raised concerning small retailers, chain stores and disqualification of licences. These provisions were included in 1993 following consultation with the retail industry. The consultation indicated that they would cooperate in making it work. As the honourable member has filed amendments on this clause, the Government proposes to discuss these proposed changes at that stage. A question was asked:

> How many licensed retailers have been 'pinged'—

I presume that means prosecuted—

> in each year since 1988 for selling tobacco products to minors?

Whilst only one prosecution has been launched, I am told that 55 warnings have been given to retailers in relation to this issue. The one prosecution that was launched was successful. In relation to clause 47, the question was asked:

> In the Hilton Hotel and Jarmers examples, is the Government able to come up with some accommodation for such establishments?

As the Hon. Sandra Kanck indicated, I met with the honourable member and the Minister for Health some little time ago to discuss the legislation and the Democrats' attitude to provisions of it, and the Hon. Sandra Kanck pointed out what she saw to be some deficiencies in the legislation and asked whether or not the Government was prepared to consider some accommodation for establishments such as Jarmers and the Hilton.

The Hon. A.J. Redford: The battlers in the industry.

The Hon. R.I. LUCAS: No, they were sensible questions that the honourable member asked. In relation to the Hilton Hotel, the honourable member pointed out the Grange restaurant on the ground floor, which everyone would acknowledge as being the eating or dining area on the ground floor of the Hilton. However, in the Hilton is the very big lobby, which is somewhat raised, where people generally sit, lounge, chat, smoke and drink. In the other corner, something I know a little better—and the Hon. Angus Redford might know a little better as well—is Charlie's Bar, where one can go for a drink and something light to eat. But that is, in effect, the drinking bar and entertainment area of the ground floor of the Hilton.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Apparently, there is a carvery as well. In the original drafting, the Hon. Sandra Kanck pointed out the problem with the Hilton. That ground floor is one enclosed area, because the Grange is not closed off. There is no wall or door that closes off the Grange as a dining room area.

The Hon. Anne Levy: You cannot smoke in the Grange now.

The Hon. R.I. LUCAS: We are talking about a principle here. So, the ground floor of the Hilton is one broad area. If the legislation were applied in its original form, the Grange would have been the non-smoking dining area, Charlie's Bar might have been the area that is the front bar equivalent where smoking and drinking would have been allowed but, because the Grange was the area on the ground floor where no smoking would apply, potentially the legislation would have meant that the whole ground floor of the Hilton, with the exception of Charlie's Bar, would have been a non-smoking area. All that lounge, lobby, lifts and reception area leading out to the front door would have been a non-smoking area.

In discussions between the Hon. Sandra Kanck, the Minister and me we then moved on to the Hyatt, where it is more apparent because it is an even bigger area. Again, there is a restaurant on the ground floor that is not enclosed, and the original drafting of the legislation would have meant, potentially, that all of the ground floor would have been a non-smoking area because of the restaurant. Then there is the interesting question of when one goes down the winding stairs. If that is still the one enclosed area, the question is whether or not smoking would have been banned going down the stairs to the next floor.

Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: I am not sure where the Democrats dine on *a la carte* lentils but, potentially, under the original drafting all of that area might have been non-smoking. As the Hon. Sandra Kanck pointed out, she did not think that was originally the intention of the legislation and asked the Minister and me whether the Government was prepared to look at accommodating some changes in that area. The Government has been prepared to acknowledge that the legislation needed to be tidied up in relation to that area.

The honourable member also raised the question of Jarmers Restaurant, and I must admit it has been many a year since I have been there. However, I am told that there is a dining area where clearly food is consumed, but there is also a separate room or alcove—I am not sure which—separated distinctly from the dining area, where people can go and smoke.

The Hon. Anne Levy: Like Ayers House?

The Hon. R.I. LUCAS: Again, I am not familiar with Ayers House. The Hon. Anne Levy might be, but I am not. It is not the normal circle I move in.

The Hon. Anne Levy: I have been taken there.

The Hon. R.I. LUCAS: I have never been taken there, either—well, that is not true. As to the Jarmers Restaurant

question, it seemed reasonable that the people who were dining in the particular area in the restaurant would be able to dine in a smoke free environment, but it was asked whether, if someone wanted to poison themselves out the back in a room (I do not think she used that word) they should not be allowed to do that. Under the original drafting of the legislation, evidently that was not going to be possible.

So, the Hon. Sandra Kanck raised some very important questions in relation to the implications of the legislation. It has been as a result of the honourable member's questions that significant amendments have been moved by the Government in response to these issues.

The Hon. Sandra Kanck: I have not been to any of those restaurants.

The Hon. R.I. LUCAS: And the Hon. Sandra Kanck has not been to any of those restaurants, either. We might explore this again in the Committee stage, but my advice, in writing, is as follows.

The restrictions only apply to public dining areas, that is, where meals are provided. The licensee can designate a bar or lounge area which is predominantly for the consumption of drinks in which smoking is allowed. The amendments also allow for the exemption of other bars and lounges. That is another point that was raised by other members. Under the original drafting of the legislation, there are a number of hotels with which the Hon. Terry Roberts would be familiar. I do not think he has had a fight in these particular hotels, unlike the Somerset. However, there are hotels that have a dining area where, under the legislation, smoking would be banned. You have a front bar where smoking would be allowed, but you might also have a saloon or lounge bar, or something like that, whatever it might be called. Under the original legislation, the licensee was going to be able to designate only one of those bar areas as a smoking area, even though the dining room was going to be non smoking and was separate and distinct.

Again, I do not think it was the Hon. Sandra Kanck, but one of the Liberal Party members or particular interest groups—it might have been the AHA—raised this issue. Again, this Government, always being willing to listen, to learn and to improve its legislation, was prepared to see what it could do in terms of amendment. So, the provision will now allow in those particular circumstances the dining room to remain non smoking, with perhaps two bars within the hotel in this case to be designated as smoking areas as well.

In relation to the Hilton Hotel, their corner bar could be designated by the licensee to be a smoking area. In the lobby area, the licensee could apply for exemption. However, exemptions could not apply to any dining areas. In relation to Jarmers, the bar area is understood to be a separate room in which meals are not provided and, as such, it would not come within the terms of the legislation. In any event, under the amendments, the licensee could designate it as a smoking area.

The Hon. Sandra Kanck then asked what was meant by the words 'for the time being' in clause 47, page 25, after line 9. How can something become unexempted? The answer I am given is that an exemption may be made for a specified period and it may also be revoked in the terms of clause 47. The honourable member also asked some questions in relation to clause 7, as follows:

> I invite the Minister to place something on the record as regards the record of apprehension on bootlegging.

The answer I am provided with is that the Commissioner of State Taxation has advised that a State Taxation Office analysis has revealed that the risk of tobacco licence fee revenue from bootlegging arising from the 2 per cent and 5 per cent increases in category B and category C respectively is extremely minimal or negligible. State Taxation Offices around Australia have successfully countered and combated bootlegging where there were 25 percentage point differentials and, consequently, the ability to successfully counter 2 per cent and 5 per cent differentials is enormously higher.

State Taxation Office Compliance Officials' skills in countering this type of activity have been honed over recent years, and the State's tobacco licence fee revenue reflects this. The Government is confident that these category licence fee differentials will not put the State's revenue at risk from bootlegging. The honourable member then asked:

> What is the Government's response to the letter from Rothmans' legal advisers? Is there a problem there which the Government had not anticipated? If there is, does the Government have a solution?

The answer is that Rothmans' letter to my colleague, the Treasurer, attached advice from a large national legal firm. I think the honourable member read most, if not all, of that letter into the *Hansard* record.

My colleague, the Treasurer, met with Rothmans on 17 March 1997 and has advised them that, should they do what is flagged in that advice, they will be exposing themselves and their shareholders to significant risk. Clearly that is a matter for Rothmans. There have been no problems raised that the Government has not anticipated, and nor are there any threats raised that have not been anticipated. One small issue raised by Rothmans is the subject of amendments which I will be moving. I am advised that whilst the amendments are not strictly necessary it will avoid any confusion, doubt or ambiguity.

The final question from the Hon. Sandra Kanck was as follows:

> Lobbyists from the tobacco retailers told me they have known about the tar tax since October last year. How long ago were they formally told? When did they receive a copy of the draft Bill?

The response is that Cabinet authorised consultation with the tobacco industry and, pursuant to that, the Commissioner forwarded the draft Bill (substantially the same as the Bill originally introduced in another place on 5 February 1997) under cover of his letter dated 30 October 1996. The Commissioner advises that the draft Bill, which was released on a strictly confidential basis, was subsequently circulated by one or more of the recipients of those letters to a wider group. They were substantially the questions addressed to me by the Hon. Sandra Kanck.

The Hon. Angus Redford, as I indicated, did address a series of questions as well, and some of those he may well pursue in the Committee stage of the debate. I must thank officers from the office of the Minister for Health and the Health Commission for the work they have done overnight and through today in endeavouring to provide answers to some of the questions raised by the honourable member. I place those on the record now. The following question was asked:

> In relation to corporate boxes, whether they be at Football Park or at the cricket or the Entertainment Centre, I would be most grateful if the Minister could provide us with full details of the costs of having those facilities, the purpose for which those facilities were leased, what benefits Living Health got from those facilities, and what those facilities cost. I would also be most interested to know how the organisation determined who was to be invited to those corporate boxes or to other events conducted by them or provided

by them and for what purpose and whether there were any set criteria in determining that.

The reply is that Living Health does not have boxes or lease boxes at any facility. In relation to the Football Park box, Foundation SA had use of a corporate box in the 1989 season only. This was as a result of taking over the sponsorship contract and benefits previously offered to the tobacco company, whose sponsorship Foundation SA was obligated to replace. Such an opportunity was quickly viewed by the Foundation SA board as not being a valuable health promotion tool and, as a consequence, the SANFL was advised that the foundation wished to discontinue its use of the facility.

In relation to the Adelaide Oval/Entertainment Centre, Living Health has never had a box at the Adelaide oval nor at the Entertainment Centre. It should be remembered that SACA has been sponsored by a cigarette company until this year.

In relation to tickets, Living Health utilises tickets offered by sponsored organisations in four principal ways:

(1) For evaluation, representatives of Living Health attend, assess the evaluation of the sponsorship to achieve the objectives set out in the contract.

(2) To demonstrate health promotion strategies and achievements.

(3) As part of other health promotion strategies such as prizes in radio/newspaper competitions.

(4) As prizes in a campaign to encourage people to experience something new or different as part of leading a balanced healthy lifestyle.

The honourable member also asked:

I would also be most interested to know what targets Living Health has in relation to the reduction of smoking and what specific statistical targets does Living Health have and when does it hope to achieve them? In other words, is there a specific statistical benchmark from which we can determine the success of Living Health and its objectives?

I am advised that Living Health's target is to have 100 per cent smoke free venues at every venue sponsored.

The next question was as follows:

I would like to know why there was a name change. I would like to know how much it cost.

I am advised that the name 'Living Health' is a strategic change and was part of a health promotion strategy. Living Health surveyed the organisations it sponsored (Sexton marketing, sample size 317, September 1995.) The results were: Foundation SA was perceived to be an administrator of a fund. Two thirds wanted a change in Foundation SA's direction and for Foundation SA to become a proactive health promotion agency.

Sponsored organisations wanted Foundation SA to be a marketer of the powerful health promotion message. They wanted help in promoting health and offering healthier choices. The name 'Foundation SA did not mean anything. They wanted leadership from Foundation SA, in particular a stronger public marketing role to coordinate activities of sponsored organisations to achieve better health outcomes, to provide training, health promoting marketing and promoting their events.

Living Health surveyed the general public (Sexton Marketing, focus groups and questionnaire, sample size 400, September 1995. The results were that they welcomed the idea that an organisation would be effecting changes for healthier choices in sporting, recreation and arts organisations.

'Foundation SA' did not mean anything and had a confusing logo. Many asked why Foundation SA did not change its name to mean something. They supported using tobacco tax to promote health ('The money from tobacco tax could not be spend in a better way.') The brand 'Living Health' was developed in-house with input from a range of graphic designers at a cost of $10 989, comprising $10 026 on graphic design and $963 in legal costs. The logo was incorporated into the normal print run of stationery and other items.

The next question did not receive an answer. The honourable member then said:

In regard to Living Health, I would also be interested to know what the cost of grants are in relation to recipients. I would like to know whether Living Health has conducted any evaluation of what it costs the recipients of grants to enable them to comply with conditions and/or attract the grants that Living Health gives out.

I am advised that Living Health grants are better characterised as sponsorship. Living Health seeks to achieve changes aimed at a healthier lifestyle through sponsorship of sporting, recreational and arts events. Placing the words 'Living Health' on letterheads is not imposed on sponsored organisations by Living Health, but it is recommended as part of an overall strategy to achieve these changes. The next question was:

I would also be interested to know why the Heart Foundation did not receive any funds the year before that.

The National Heart Foundation is one of many agencies which applies for sponsorship of health promotion programs and competes with other agencies for funds based on published criteria and determined by a panel of five experts and highly regarded peers on the health advisory committee and then by a board of seven members appointed by the relevant Ministers. The next question was as follows:

How many applications are made by Living Health and how many are rejected?

I am advised that in 1996-97 Living Health received 111 applications for health promotion project funding totalling $1 457 324 and approved 55 applications which best met the criteria and had the strongest methodology and project design. The funds available in 1996-97 for health promotion sponsorships was $450 388. It was then asked:

I would be grateful if the Minister could advise to whom annual reports are distributed, what are the costs and why copies are not provided to all members of Parliament.

Copies of the annual reports are tabled in both Houses and are available for all members of Parliament. The honourable member then said:

I would be interested to know whether there has been a comparison in the performance of Living Health and VicHealth and, if not, why not and, if so, what in general terms has been the comparison in performance?

An evaluation of the performance of Living Health compared with VicHealth and Healthway will be considered and undertaken if the particular benefits to be gained merit the cost of such an exercise. The honourable member then said:

Also, I note that there are some $4 million in reserve. What are those reserves for? If they are for forward commitments what are they and can they be specified?

The reserves meet the volatility in money and shortfalls of money received against budget from month to month and ensure that Living Health can meet its sponsorship obligations and payments to 350 organisations dependent on their money throughout the year. The next question was:

Also, I note there is accommodation for $127 000 in the accounts. To whom is the rental on the leased property paid and for how long is that lease for?

Living Health has a lease at its current premises until 30 September 1997 and is currently exploring options. The next question was:

If I am correct in my understanding, if the Government wants the Bill to go through this week, I invite it to reconsider urgently the drafting of this amendment. I would be grateful to know whether or not the Minister would consider giving a Minister power to provide an exemption if licensed premises display the appropriate signs and install appropriate air-conditioning equipment and maintain a distinct area.

It is important to have a discretion; otherwise, a bar could be established simply for the purposes of circumventing the legislation.

A number of the questions that the honourable member asked do not have answers, and I am sure there are a number of questions to which the honourable member has received answers on which he will want a further explanation. The only suggestion I make is that in relation to Living Health we can certainly undertake to send further answers during the period between the end of this session and the start of the next session, and the honourable member may want to put more questions on notice in Committee or on notice in the Parliament. A number of options are open to the member to pursue the detailed questions that he is seeking in relation to the operations of Living Health.

There are many other questions, but time does not permit me to go through all of them. I invite members to resubmit them in Committee and we will endeavour, on a clause by clause basis, to work our way through those questions.

Bill read a second time.

CASINO BILL

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

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill is part of a package of four Bills primarily concerned with matters relating to the casino. (*Casino Bill 1997, Gaming Supervisory Authority (Administrative Restructuring) Amendment Bill 1997, Gaming Machines (Administrative Restructuring) Amendment Bill 1997, Liquor Licensing (Administrative Restructuring) Amendment Bill 1997*). The opportunity is taken to introduce a number of amendments recommended by the Gaming Supervisory Authority (the Authority).

It is proposed that the Adelaide Casino, the Hyatt Regency Hotel, and the Riverside Centre be prepared for sale. In order to achieve that course, it will be necessary for the existing property arrangements relating to these assets and the existing licensing arrangements relating to the casino to be simplified and re-arranged.

As the amendments required in relation to the casino are quite substantial, Parliamentary Counsel has taken the opportunity to prepare a Bill for a new Act rather than make extensive amendments to the Act of 1983.

The existing licence is held by the Lotteries Commission. This licence will be surrendered and replaced by a new licence in favour of the operator of the casino, granted by the Governor on the recommendation of the Authority. The new arrangement will take place on the sale of the casino to an intended buyer. Until the Authority is satisfied with the proposed new licensee it will make no recommendation to the Governor, and the present licence and arrangements will remain in force.

There will continue to be only one casino licence on issue at any one time.

The existing premises in the Railway Station Building will continue to be licensed. There is power, however, to remove the licence to another address if the Authority so recommends after holding a public inquiry on the issue.

The conditions of the licence, including its term, will be contained in an agreement made between the Minister and the licensee and approved by the Authority ('the approved licensing agreement'). The licence itself is granted by the Governor. Thus there is a dual approval in that any licensee would have to be approved by both the Governor and the Authority.

Any variation in the terms and conditions of licence may be made by the Governor on the recommendation of the Authority but the power of variation is subject to any limitations contained in the approved licensing agreement. There are certain terms and conditions of licence contained in the Bill itself. These cannot be amended except by statute.

The licence is transferable if approved by the Governor on the recommendation of the Authority. The renewal of the licence on the expiry of the term will be approved by the Governor on the recommendation of the Authority. The licensee will be required to apply for renewal and has no entitlement to or legitimate expectation of renewal.

Provisions have been included requiring the approval of the Authority to any dealing with the licence or casino business or which effects a change of control or significant influence.

Under the Bill, the Minister is authorised to enter into an agreement with the licensee under which the licensee can be assured of an exclusive licence within the State for a period of years on such terms and conditions as the Minister thinks fit.

Comprehensive provisions are included in the Bill to enable the Authority to check on the suitability of an applicant for a licence and its close associates. The Authority is charged with the task of carrying out an investigation into the application and is given wide powers for that purpose. The cost of any investigation is to be borne by the applicant.

It is proposed that the title of the Liquor Licensing Commissioner will be redesignated as the Liquor and Gaming Commissioner. A provision to enable this to be done will be included in each of the Bills in the package.

The Bill contains provisions enabling staff to be approved by the Liquor and Gaming Commissioner.

Gambling on credit is prohibited except under conditions approved by the Authority. Children are not to be admitted to the casino.

The Bill contains provisions enabling the licensee or the Liquor and Gaming Commissioner to bar persons from the casino on any reasonable ground including the ground that a person is placing his or her own welfare, or the welfare of dependants, at risk through gambling. Rights of appeal are included.

A provision similar to section 23 of the existing Casino Act is included in the Bill enabling the Authority to give written directions about the management, supervision and control of any aspect of the operation of the casino.

The Bill enables casino duty to be fixed in an agreement between the Treasurer and the licensee and levied on the licensee. Any agreement as to casino duty must be tabled in Parliament.

There are a number of mechanisms in the Bill dealing with defaults on the part of the licensee. There is a statutory default if the licensee contravenes or fails to comply with a provision of the Act or a condition of the licence. Where a default can be remedied, a compliance notice can be issued. If the default is remedied in due time, that is the end of the matter and no other disciplinary action can be taken in relation to the default. Failure to comply with a compliance notice is an offence. Also disciplinary action could be taken in the event of a failure to comply.

For small breaches of the Act or licence, an expiation notice can be issued by the Authority, and a fine of up to $10 000 may be levied. If the expiation notice is complied with, no further action can be taken either under the disciplinary action provisions or the criminal law. If the notice is not complied with, disciplinary action can be taken.

Finally, there is disciplinary action under which the Authority can cancel or suspend a licence, censure the licensee, impose a fine up to $100 000 or vary the conditions of the licence without the consent of the licensee. These powers may be exercised where a statutory default occurs.

There is a right of appeal to the Supreme Court on a decision by the Authority to take disciplinary action. There is also a right of appeal on any issue where a question of law is involved.

Injunctive remedies are provided for in appropriate cases.

As to disciplinary action, compliance notices and injunctive remedies, the Bill follows closely similar provisions in casino legislation in force in New South Wales.

Where a licence is suspended or cancelled, a manager can be appointed by the Minister to continue the running of the casino business. Where that occurs, the manager is treated as the licensee.

The Authority is required to provide an annual report to the Minister which must be tabled in Parliament.

There has been consultation with the Asset Management Task Force, the Department of Treasury and Finance, Kumagai Australia, Superannuation Funds Management Corporation, the Gaming Supervisory Authority, the Liquor Licensing Commissioner, and Crown Law.

I commend this Bill to the House.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

This clause defines terms for the purposes of the Bill. In particular, the Authority is the Gaming Supervisory Authority and the Commissioner is the Liquor and Gaming Commissioner under the *Liquor Licensing Act 1985*.

Clause 4: Close associates

This clause sets out the circumstances in which persons will be regarded as close associates. This is relevant to the provisions regulating the body that may hold the casino licence.

PART 2

LICENSING OF CASINO

Division 1—Grant of licence

Clause 5: Grant of licence

This clause provides that it is the Governor who is to issue the licence.

Clause 6: Casino premises

This clause restricts granting of the first casino licence to the current premises but contemplates that a subsequent licence may be granted over premises recommended by the Authority after public inquiry. The clause contemplates extension or contraction of the premises without public inquiry.

Clause 7: Restriction on number of licences

There can be only one casino licence.

Division 2—Authority conferred by licence

Clause 8: Authority conferred by licence

This clause makes operation of the casino and gambling at the casino lawful.

Division 3—Term and renewal of licence

Clause 9: Term and renewal of licence

The approved licensing agreement (see clause 16) is to govern the term of the licence. There is to be no entitlement to renewal of the licence but the Governor may renew the licence if the parties renegotiate the agreement and the Authority approves the renegotiated agreement.

Division 4—Conditions of licence

Clause 10: Conditions of licence

Conditions of licence may be imposed by the Act or regulations or by or in accordance with the approved licensing agreement.

Division 5—Transfer of licence

Clause 11: Transfer of licence

The licence may be transferred by the Governor on the recommendation of the Authority.

Division 6—Dealings affecting casino licence

Clause 12: Dealing with licence

The approval of the Authority is required to any proposed mortgage, charge or encumbrance relating to the casino licence or other assets of the business conducted by the licensee within the casino.

Clause 13: Dealings affecting casino business

The approval of the Authority is also required to any proposed disposition or grant of an interest in the casino licence.

Clause 14: Transactions affecting control of the licensee

A transaction under which a person or a group of persons who are close associates of each other attains a position of control or significant influence over a licensee must be approved by the Authority. If approval is not obtained, the licensee is subject to disciplinary proceedings.

Division 7—Surrender of licence

Clause 15: Surrender of licence

The approval of the Authority is required for surrender of the casino licence.

Division 8—Agreement with licensee

Clause 16: Approved licensing agreement

This clause sets out the matters that must be covered by an agreement between the licensee and the Minister. The agreement must be approved by the Authority (except in relation to terms or conditions about the exclusiveness of the licensee's right to operate a casino in this State).

Clause 17: Casino duty agreement

This clause sets out the matters relating to the payment of casino duty that must be covered by an agreement between the licensee and the Treasurer. It also provides that the agreement does not attract stamp duty.

Clause 18: Agreements to be tabled in Parliament

The agreements must be laid before both Houses of Parliament.

PART 3

APPLICATIONS FOR GRANT OR TRANSFER OF LICENCE

Division 1—Eligibility to apply

Clause 19: Eligibility of applicants

An applicant must be a body corporate.

Division 2—Making of applications

Clause 20: Applications

This clause governs the procedure for making an application for the casino licence. Special provisions apply for the first grant of a licence after the commencement of the Bill.

Division 3—The Authority's recommendation

Clause 21: Suitability of applicant for grant, renewal or transfer of the casino licence

The Authority is required to assess the suitability of the prospective licensee and this clause specifies the factors that must be taken into account in doing so.

Division 4—Investigations by the Authority

Clause 22: Investigation of application

The Authority is required to obtain a police report on each person concerned in or associated with the management or operation of the casino and must otherwise investigate relevant matters.

Clause 23: Investigative powers

The Authority is given powers to require persons to provide information or documents or to attend before it for the purposes of an investigation into an application. The powers extend to requiring relevant persons to submit to the taking of photographs, finger prints or palm prints.

Division 5—Costs of investigation

Clause 24: Costs of investigation

The applicant is to bear the costs of an investigation.

Division 6—Governor not bound by Authority's recommendation

Clause 25: Governor not bound

The Governor is not bound by the Authority's recommendation.

PART 4

OPERATION OF CASINO

Division 1—Opening hours

Clause 26: Opening hours

The conditions of licence are to fix the opening hours of the casino except that the casino is to be closed on Christmas Day and Good Friday. Conditions of licence may be fixed by the approved licensing agreement.

Division 2—Approval of management and staff

Clause 27: Classification of offices and positions

This clauses establishes a classification of positions for the purposes of requiring persons holding the positions to be approved by the Commissioner under this Division.

Clause 28: Obligations of the licensee

Each director, secretary, officer or employee of the licensee and each casino staff member must be approved by the Commissioner as a suitable person to work in sensitive positions (unless the person holds a position classified as non-sensitive by the Authority).

Each person holding any other position associated with the operation of the casino that is designated by the Authority as a sensitive position must be approved by the Commissioner as a suitable person to work in sensitive positions.

In addition if the sensitive position is classified by the Authority as a position of responsibility the person must be approved by the Commissioner as a suitable person to work in a position of responsibility of the relevant class.

The obligation to obtain relevant approvals is placed on the licensee. The clause contemplates the Authority exempting the licensee from compliance with the clause to an extent specified by the Authority.

Approvals are not required in respect of persons who occupy relevant positions at the commencement of the Bill.

Clause 29: Applications for approval

The Commissioner is to provide the relevant approval. The Commissioner of Police is to be consulted and the Commissioner has the power to require the person to submit to the taking of photographs or finger prints or palm prints.

Clause 30: Decision on applications

The Commissioner has discretion to grant or revoke approval.

Division 3—Casino staff

Clause 31: Identity cards

Staff members must wear identity cards.

Clause 32: Staff not to gamble

This clause makes it an offence for staff members to gamble.

Clause 33: Staff not to accept gratuities

Staff members are not permitted to accept gratuities in the course of work except gratuities paid by the licensee or another employer with the approval of the Authority.

Division 4—Approval and use of systems and equipment

Clause 34: Approval of systems and equipment

This clause makes it a condition of the casino licence that all gambling and surveillance or security systems or equipment be approved by the Commissioner. The Commissioner may issue directions or seize control of systems and equipment where appropriate.

Division 5—Operations involving movement of money etc.

Clause 35: Operations involving movement of money etc.

This clause authorises the Commissioner or an authorised officer to issue directions about the movement or counting of money or gambling chips in the casino (as a condition of the licence).

It also authorises the Commissioner to give instructions to facilitate the scrutiny by authorised officers of operations involving the movement or counting of money or gambling chips in the casino (as a condition of the licence).

Division 6—Gambling on credit

Clause 36: Gambling on credit prohibited

This clause imposes, as a condition of licence, a prohibition on allowing gambling with deferred payment except as authorised by the Authority.

Division 7—Exclusion of children

Clause 37: Exclusion of children

The Authority may determine procedures to be followed to ensure that children are excluded from the casino. It is an offence for children to be in the casino but it is a defence if it is shown that the procedures for exclusion were followed. Any money won by a child at the casino is forfeited to the Crown.

Division 8—General power of exclusion

Clause 38: Licensee's power to bar

This clause governs the licensee's power to exclude persons from the casino and to prevent entry by or remove excluded persons.

Clause 39: Commissioner's power to bar

This clause governs the Commissioner's power to exclude persons from the casino-

- on the application of the person against whom the order is to be made; or
- on the application of a dependant or other person who appears to have a legitimate interest in the welfare of the person against whom the order is to be made; or
- on review of an order made by the licensee barring the person against whom the order is to be made from the casino; or
- on the Commissioner's own initiative.

Division 9—General power of direction

Clause 40: Directions to licensee

The licensee is required to follow any directions of the Authority as to the management, supervision and control of any aspect of the operation of the casino.

PART 5

FINANCIAL MATTERS

Division 1—Accounts and audit

Clause 41: Accounts and audit

The licensee is required to keep proper accounts of the operations of the casino, separately from accounts for any other business of the licensee.

Auditing is to take place by a registered company auditor in accordance with the conditions of licence.

Clause 42: Licensee to supply authority with copy of audited accounts

The licensee is required to give the Authority copies of accounts kept under this Act and accounts kept under the Corporations Law.

Clause 43: Duty of auditor

This clause places an obligation on the auditor to report suspected irregularities to the Authority.

Division 2—Casino duty

Clause 44: Liability to casino duty

The licensee is required to pay casino duty in accordance with an agreement with the Treasurer (for payment into the Consolidated Account).

Clause 45: Evasion of casino duty

This clause creates offences in relation to evasion of casino duty and provides for the Treasurer, within 4 years after the liability for duty arose, to make an estimate of the duty that should have been paid and make a reassessment of duty on the basis of the estimate.

PART 6

SUPERVISION

Division 1—Commissioner's supervisory responsibility

Clause 46: Responsibility of the Commissioner

The Commissioner is responsible to the Authority to ensure that the operations of the casino are subject to constant scrutiny.

Division 2—Power to obtain information

Clause 47: Power to obtain information

The Commissioner or the Authority may require the licensee to provide relevant information.

Division 3—Powers of authorised officers

Clause 48: Powers of inspection

Authorised officers are given power to enter and remain in the casino to ascertain whether the operation of the casino is being properly supervised and managed or the provisions of the Act and regulations and the conditions of the licence are being complied with.

An authorised officer may require a casino staff member to facilitate an examination by the officer of equipment used for gambling and of accounts and records relating to the operation of the casino.

An authorised officer is required to report to the Commissioner and the Authority any irregularity or deficiency in the supervision or management of the casino or in the accounts or records relating to the casino of which the officer becomes aware.

PART 7

POWER TO DEAL WITH DEFAULT

Division 1—Statutory default

Clause 49: Statutory default

Under this Part the Authority is given certain powers to deal with a statutory default, *ie*, a contravention of the conditions of the licence or of the provisions of the Act or the regulations.

Clause 50: Effect of criminal proceedings

The powers given to the Authority are in addition to the imposition of other penalties.

Division 2—Compliance notices

Clause 51: Compliance notice

The Authority may issue a notice to the licensee specifying the default and requiring the licensee to take specified action, within a period specified in the notice, to remedy the default or to ensure against repetition of the default.

Division 3—Expiation notices

Clause 52: Expiation notice

The Authority may issue an expiation notice with an expiation fee determined by the Authority but not exceeding $10 000. If paid, no disciplinary action may be taken under Division 5 and no criminal proceedings instituted.

Division 4—Injunctive remedies

Clause 53: Injunctive remedies

The Minister or the Authority may apply to the Supreme Court for an injunction to prevent the statutory default or to prevent recurrence of the statutory default.

Division 5—Disciplinary action

Clause 54: Disciplinary action

The Authority may—

- censure the licensee;
- impose a fine of up to $100 000 on the licensee;
- vary the conditions of the licence (irrespective of any provision of the approved licensing agreement excluding or limiting the power of variation of the conditions of the licence);
- suspend the licence for a specified or unlimited period;
- cancel the licence.

The clause establishes the procedures to be followed in taking such disciplinary action.

Clause 55: Alternative remedy

The Authority may, instead of taking disciplinary action, issue a compliance notice.

Division 6—Official management

Clause 56: Power to appoint manager

The Minister may, on the recommendation of the Authority, appoint an official manager of the casino business if the casino licence is suspended, cancelled or surrendered or expires and is not renewed.

Clause 57: Powers of manager

This clause sets out the process to be followed by an official manager and the powers of the manager.

PART 8

REVIEW AND APPEAL

Clause 58: Review of Commissioner's decision

The Commissioner's decisions are subject to review by the Authority.

Clause 59: Finality of Authority's decisions

A decision of the Authority is final except that a decision to take disciplinary action against a licensee may be taken on appeal to the Supreme Court and a question of law may be taken on appeal by leave of the Supreme Court.

Clause 60: Finality of Governor's decisions

A decision of the Governor is not subject to review or appeal.

PART 9

MISCELLANEOUS

Clause 61: Reasons for decision

This clause provides that in general terms reasons need not be given for decisions under the Bill. Various exceptions are spelt out.

Clause 62: Confidentiality of information provided by Commissioner of Police

The Commissioner of Police may require information to be kept confidential on the basis that it might prejudice present or future police investigations or legal proceedings or create a risk of loss, harm or undue distress.

Clause 63: Prohibition of gambling by the Commissioner and authorised officers

This clause makes it an offence for the Commissioner or an authorised officer to gamble at the casino.

Clause 64: Annual report

The Commissioner must report to the Authority before 30 September. The Authority must report to the Minister before 31 October. The Minister must lay the Authority's report before both Houses of Parliament.

Clause 65: Regulations

This clause provides general regulation making power.

SCHEDULE

Repeal and Transitional Provisions

The Schedule repeals the *Casino Act 1983* and contains transitional provisions providing for the continuation of the current licence until the date on which a licence is first granted under the Bill.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

GAMING MACHINES (ADMINISTRATIVE RESTRUCTURING) AMENDMENT BILL

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

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill is part of a package of four Bills primarily concerned with matters relating to the casino. (*Casino Bill 1997, Gaming Supervisory Authority (Administrative Restructuring) Amendment Bill 1997, Gaming Machines (Administrative Restructuring) Amendment Bill 1997, Liquor Licensing (Administrative Restructuring) Amendment Bill 1997*).

The Bill contains an amendment to facilitate the redesignation of the title of the Liquor Licensing Commissioner to that of Liquor and Gaming Commissioner.

In section 36, failure to attend a prescribed training session is a ground for disciplinary action in respect of a gaming machine manager.

A new section 36A has been added enabling expiation notices to be given in appropriate cases where there are grounds for disciplinary action against a licensee.

The reporting provisions in section 74 have been amended to provide for a reporting date which is uniform with that in the *Casino Act*. Other minor amendments to the reporting provisions have been made.

The amendment to Schedule 2 of the Act is merely to correct an error.

I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment of s. 3—Interpretation

This amendment is consequential to the amendments to the *Liquor Licensing Act 1985* and reflects the change in title of the Commissioner.

Clause 4: Amendment of s. 36—Revocation or suspension of licences

The amendment adds a new ground for the taking of disciplinary action under this section, namely, that an approved gaming machine manager who is responsible for managing operations conducted under the licence fails, without reasonable excuse, to attend a training session that the manager is required to attend under the regulations.

Clause 5: Insertion of ss. 36A and 36B

This clause adds expiation notices to the disciplinary measures that may be taken under the Act.

New section 36A provides for expiation notices to be issued by the Commissioner with expiation fees determined by the Commissioner but not exceeding $10 000. If paid, no disciplinary action may be taken or criminal proceedings instituted.

New section 36B continues the power of the Commissioner to cancel a licence if the licensee ceases to operate gaming machines under the licence for 6 months or more. This power is currently contained in section 36(1)*(k)*.

Clause 6: Amendment of s. 74—Annual reports

The amendment alters the date for the provision of an annual report by the Authority and the Board and sets out details of what is to be included in the reports.

Clause 7: Amendment of Schedule 2

The amendment contemplates directions being given by the Authority or the Commissioner, rather than by the Minister or Commissioner.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

LIQUOR LICENSING (ADMINISTRATIVE RESTRUCTURING) AMENDMENT BILL

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

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill is part of a package of four Bills primarily concerned with matters relating to the casino. (*Casino Bill 1997, Gaming Supervisory Authority (Administrative Restructuring) Amendment Bill 1997, Gaming Machines (Administrative Restructuring) Amendment Bill 1997, Liquor Licensing (Administrative Restructuring) Amendment Bill 1997*).

The Bill contains an amendment to facilitate the redesignation of the title of the Liquor Licensing Commissioner to that of Liquor and Gaming Commissioner.

I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment of s. 4—Interpretation

This clause substitutes the definition of the Commissioner in recognition of the change in title of the Commissioner.

Clause 4: Substitution of s. 6

The amendment alters the title of the Commissioner to Liquor and Gaming Commissioner in recognition of the responsibilities to be given to the Commissioner relating to gaming.

The Commissioner is to continue to be responsible to the Minister for the administration of the Act and to be an officer of the Public Service.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

GAMING SUPERVISORY AUTHORITY (ADMINISTRATIVE RESTRUCTURING) AMENDMENT BILL

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

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill is part of a package of four Bills primarily concerned with matters relating to the casino. (*Casino Bill 1997, Gaming Supervisory Authority (Administrative Restructuring) Amendment Bill 1997, Gaming Machines (Administrative Restructuring) Amendment Bill 1997, Liquor Licensing (Administrative Restructuring) Amendment Bill 1997*).

The Bill contains an amendment to facilitate the redesignation of the title of the Liquor Licensing Commissioner to that of Liquor and Gaming Commissioner.

Section 5 of the Act is amended to enable a member of the Gaming Supervisory Authority with appropriate qualifications to be appointed as deputy presiding member and to act as chairman in the absence of the presiding member.

A new section 16 is included to prohibit members of the Authority from using gaming machines in hotels and clubs under their jurisdiction or from participating in gaming in the casino.

A new section is included to require members and employees of the Authority from disclosing confidential information. However, confidential information may be disclosed to similar bodies in other States and Territories and in New Zealand. This clause is intended to be part of reciprocal legislation.

The *Freedom of Information Act* is not to apply to the Authority; nor is it to be under the jurisdiction of the Ombudsman.

I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment of s. 3—Interpretation

This amendment is consequential to the amendments to the *Liquor Licensing Act 1985* and reflects the change in title of the Commissioner.

Clause 4: Amendment of s. 5—Constitution of the Authority

The amendment allows, but does not require, a member of the Authority to be appointed as the deputy of the presiding member (if he or she holds the necessary qualifications as a legal practitioner or former judicial officer).

Clause 5: Insertion of ss. 16, 17 and 18

New section 16 makes it an offence for a member or employee of the Authority to engage in a gambling activity to which the Authority's statutory responsibilities extend.

New section 17 makes it an offence for a member or employee (or a former member or employee) of the Authority to disclose confidential information obtained in the course of carrying out official functions except in specified circumstances. It also provides that the *Freedom of Information Act 1991* does not apply in relation to the Authority.

New section 18 provides that the Ombudsman's jurisdiction does not extend to acts of the Authority.

Clause 6: Amendment of penalties

This clause converts and rationalises existing divisional penalties in the Act.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

SUBORDINATE LEGISLATION (COMMENCEMENT OF REGULATIONS) AMENDMENT BILL

A message was received from the House of Assembly agreeing to a conference to be held in the Plaza Room at 10 p.m. today.

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

That the sittings of the Council be not suspended during the conference.

Motion carried.

STATUTES AMENDMENT (REFERENCES TO BANKS) BILL

Adjourned debate on second reading.

(Continued from 27 February. Page 1014.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading of this Bill which gives credit unions and building societies equal status to banks. Banks may be more steeped in history and tradition but, for most practical purposes, there is very little difference between them and these other financial institutions. In fact, similar regulatory regimes now cover these other financial institutions.

In light of the current state of development of credit unions and building societies there does not seem to be any justification for discriminating between them and banks. In the same way, there is no reason not to accord credit union managers the status conferred by the legislation which presently allows bank managers to take statutory declarations. We believe that this is a sensible measure and, therefore, we support the second reading.

The Hon. M.J. ELLIOTT: The Democrats support the second reading. This Bill is aimed at removing the discrimination against building societies and credit unions from South Australian legislation. I want to ask a question which has been raised in relation to clause 19 of the Bill, which is an amendment to the Wrongs Act in relation to the privileges of newspaper, radio or television reports of proceedings of public meetings, including meetings of shareholders in any bank or incorporated company. Why will the powers under section 7 of the Wrongs Act not be extended to include buildings societies and credit unions in this instance? I hope that the Minister will respond to that at the end of the second reading debate.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support of this Bill. It is an important Bill: it is something that has been the subject of representations by credit unions and building societies to Government for quite a long time. As I said in the second reading explanation, the prudential obligations now placed upon building societies and credit unions are, in many respects, much tougher than those which presently apply to banks, and on that basis there is every good reason to eliminate as much as is possible to do so the distinctions between banks, building societies and credit unions.

In relation to the Wrongs Act, as the Hon. Mr Elliott said, section 7 provides for a fair and accurate report published by newspaper, radio or television of the proceedings of, amongst other things, a meeting of shareholders in any bank or

incorporated company, and that that shall be privileged unless it is proved that the report or publication was published or made maliciously. This is a matter which is to be the subject of further review. There were a number of references to banks in various pieces of legislation which have not been the subject of amendment in this Bill because of the need to do some further research in relation to the desirability of change. There does seem to be no compelling reason to extend this provision to building societies and credit unions. We have not had an opportunity to undertake researches into the origins of that.

I suspect it was in the days when banks were the mainstream financial institutions providing the financial backbone to any society and, in those circumstances, it was appropriate for a meeting of shareholders in any bank or other incorporated company to be published. It certainly has its origin in the mists of time. I can only indicate to the honourable member that it is still one of those matters which is the subject of review by my officers. It may well be that sometime in the future it will be the subject of amendment, but we took the view that there were enough matters relating to credit unions and building societies where changes could be made in respect of the application of the law to banks or benefits being available to banks from which credit unions and building societies were precluded.

The Hon. M.J. Elliott: Is that the formal review you are talking about?

The Hon. K.T. GRIFFIN: It is not a formal review in the sense there will be a separate identifiable review. My legal officers have done most of this work in conjunction with banks, building societies, credit unions and Treasury and Finance, but of course there are some other issues not related necessarily to financial stability to which this Part of the Wrongs Act applies. So, it will be an internal review but there just was not enough time to get this and a number of other issues resolved in order to get this Bill into the Parliament. There are enough other matters where we are certain about the desirability of broadening the definition of banks to warrant this Bill being enacted now, leaving a residue of matters to be the subject of further consultation and decision.

Bill read a second time.

In Committee.

Clauses 1 to 11 passed.

Clause 12—'Interpretation.'

The Hon. R.D. LAWSON: Clause 12 will amend the Oaths Act to enable managers of building societies, credit unions and other bodies to become eligible to take oaths for the purposes of that Act. Are there any courses of training or other educational requirements for the appointment of such persons? My recollection and understanding is that there certainly were not in relation to banks. However, banks have extensive training and other facilities. If there are no training or other educational requirements, does the Attorney consider it might be appropriate to insist upon persons who are proclaimed managers for the purpose of the Oaths Act undertaking some form of training?

The Hon. K.T. GRIFFIN: There are no training programs in relation to this provision. It is not intended that there will be any. Basically, it is no different from justices of the peace, who undertake no training to be appointed justices, although I must say that I am having a good look at how that issue can be addressed. There is no doubt that in the building societies, through the Australian Association of Permanent Building Societies, and credit unions, through the Credit Unions Services Association (I think that is what it is called) there is extensive training given to all staff, including managers of these institutions. It is one of the reasons why we are moving very much towards recognising them for a wide range of purposes as being in a position where the prudential management requirements are stricter than in relation to banks. I am not perturbed by the fact that there is no formal training in relation to the witnessing of documents.

Clause passed.

Remaining clauses (13 to 19) and title passed.

Bill read a third time and passed.

STAMP DUTIES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 March. Page 1121.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. The Government has already announced to the public the new scheme to reduce stamp duty in respect of deserving home buyers, and this legislation will bring into effect the policy announcement made by the Government. The impact of the Bill is retrospective so that no-one will be disappointed that they were not able to take advantage of the stamp duty relief promised by the Premier if they happened to apply before the assent of this Bill.

Another point in relation to the Bill is the extent to which the mechanics of the scheme are to be contained in regulations. We believe that this Government perhaps relies too much on regulations as a basis for its law making. In this instance, the fact is that the mechanics of the scheme probably have not been worked out yet. Given that the Australian Bureau of Statistics figures indicate that dwelling approvals have hit a 30 year low, the housing and construction sector could certainly do with a boost. The Labor Party is committed to reviving the housing industry and other industries in this State. Accordingly, the Opposition supports the second reading.

The Hon. M.J. ELLIOTT: I rise to indicate the support of the Democrats for the Bill. The primary amendment relates to the extension of stamp duty in respect of the first home concession scheme. One must acknowledge that buying one's first home is the difficult bit. Once you have managed to get your foot in the door in terms of home ownership it becomes progressively easier as time goes by. Through this scheme, the Government is offering some assistance to people to help them to get their first home, which is something that I support.

While we are looking at giving assistance to people to buy their first home, I think it appropriate to comment on the current Government's move to get out of property development. The Government formerly played an important role in terms of owning a land bank, which it progressively released onto the market, and it also played an important role through the Housing Trust. Through those two roles as both a land developer and a land builder the Government has played a significant role in ensuring that buying a house in South Australia is cheaper than buying one in any other capital city of Australia. I find it interesting, during a period when the Government is trying to remember Sir Thomas Playford, that it seems to have forgotten some of the things that he actually did. I refer in particular to the important role that he played

in respect of the Housing Trust in ensuring that South Australia had cheap housing.

The Hon. T.G. Roberts: It is selective nostalgia.

The Hon. M.J. ELLIOTT: Yes, it is selective nostalgia: it is remembering the name without actually remembering anything that he did. It is significant in the context of this Bill that the Government is now talking about offering people assistance to buy their own home and that it is doing that through a form of tax relief. I wonder how much extra over the next couple of years it will cost new home owners to buy their first home because the Government has been progressively—not progressively but quite rapidly—withdrawing from any sort of role in property and housing development. My best guess is that the increased cost of housing over the next couple of years due to that will be much greater than any form of tax relief or any other scheme that the Government will be able to offer. Effectively, it will not be the home owner who will get these tax concessions but ultimately the property developers indirectly via the home owner.

So, the Democrats support the Bill. Clearly, at this point it will make it easier for people to buy their first home. I find it a great pity that other actions that the Government is carrying out are making it increasingly likely that it will be more difficult—this legislation aside—for people in South Australia to buy their first home.

The Hon. R.D. LAWSON: I support the second reading of this measure but, as part of it is a retrospective tax measure, I should seek from the Minister a reassurance—and I am content for that to be done in writing after the Bill is passed—that the tax measure provided in clause 3 will not adversely affect any conveyances or other documents lodged with the Commissioner of Stamp Duties prior to the announcement on 7 January by press release of the Government's intention to close the alleged loophole. Members on this side have been critical—I think correctly so—of legislation by press release, especially in the revenue field. So, I seek that assurance from the Minister relating to the retrospective operation of section 60A. I support the second reading.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their support for the second reading. On behalf of the Government, I am happy to give the Hon. Mr Lawson an assurance that I will correspond with him as soon as possible in relation to the question he raises.

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

STATUTES AMENDMENT (SUPERANNUATION) BILL

Adjourned debate on second reading.

(Continued from 18 March. Page 1211.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. The Deputy Leader of the Opposition in another place has indicated that consultation has taken place with the relevant unions, which have supported this measure. The amendments are of a technical nature and the beneficiaries of the relevant superannuation fund will not be disadvantaged. So, with our usual cooperative approach, we are dealing with this legislation in a very swift manner, which I hope the Government appreciates.

The Hon. M.J. ELLIOTT: The Democrats support the second reading. We have consulted with the various unions that represent the people likely to be affected by this Bill, and they have all indicated that they do not see any difficulties. We support the immediate passage of the Bill.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their indication of support for the second reading.

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

TOBACCO PRODUCTS REGULATION BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. ANNE LEVY: I would like to ask a question relating to the operation of section 47, which is stated here to come into operation at the beginning of 1999. I presume that the very long lead time is to enable various small businesses, such as hotels and clubs, to make appropriate arrangements. Further on we will be dealing with the question of exemptions that may be applied for and conditions for exemptions, which may include ventilation of certain standards. It may well be that some restaurants, for example, wish to apply for an exemption, but will need to install improved ventilation if they are to obtain that exemption. Will it be possible for organisations to apply for exemptions before section 47 comes into operation, so that if they need to undertake necessary capital works they will be able to apply for and receive an exemption prior to the first Monday in January 1999?

The Hon. R.I. LUCAS: As I indicated in my reply to the second reading, the period between now and 1 January 1999 will be used for the purposes that the honourable member has indicated. The period will allow the development of administrative processes and will allow the processing of requests for exemptions along the lines generally outlined by the honourable member. It will also be used to allow time for a public education process, to ensure that everyone becomes familiar with the requirements of the legislation. In the interests of public health, the Government will also be encouraging voluntary adherence to the principles of the Bill as we lead into the process. Clearly, given the controversial nature of the debate and the many claims that have been made, some of which have been wrong—and without wishing to be critical of the media, clearly some of the reports of this legislation have been wrong and misleading, and people will be under a misapprehension as to what the legislation will really mean for their establishment.

From personal discussion with the Minister, my understanding is that there will be a very comprehensive public education process but also a process whereby restaurateurs, hoteliers and others are provided with advice as to how the legislation might apply to them and how they might comply with it.

The Hon. ANNE LEVY: But specifically, they will be able to apply and receive an exemption before that date?

The Hon. R.I. LUCAS: The advice I have been given is that there will be processing of requests for exemptions, so

I presume that that means that there will be not only process but a final decision taken and granted.

The Hon. A.J. REDFORD: I have a couple of questions about clause 57(4), which is a repetition of previous functions in relation to the Sports Promotion Cultural and Health Advancement Trust. It provides, in effect, that the trust must, in performing its functions and exercising its powers, endeavour to ensure that any sporting or cultural body that receives financial support through tobacco advertising or sponsorships before the commencement of the Act is not financially disadvantaged by the operation of the Act. Few sporting or cultural bodies received financial support through tobacco advertising prior to this Bill, which will become the Act. Is it the intent in relation to this clause that it should be applicable to those who received financial support prior to the promulgation of the original Tobacco Products (Control) Act 1986?

The Hon. R.I. LUCAS: The honourable member asks an important question, and we will need to take some advice from the Minister for Health. We do not really need to address this issue until we get to clause 57, and I am sure that we will not do that by the end of play tonight. I undertake to have officers have discussions with the Minister and we will be able to explore that issue again under clause 57. If the honourable member is arguing that there is some flow-on effect of that debate back into clause 2, we can certainly recommit clause 2. But my suggestion would be that he allow me or my officers to have a discussion with the Minister, have the debate on clause 57 and, if he is unhappy with that and he therefore wants to have another look at clause 2, we could recommit clause 2 to enable the full process to be followed through.

The Hon. A.J. REDFORD: The Hon. Ron Roberts has on file an amendment that deals with the definition clause and this fund, so it is pertinent in relation to this clause. Is it the Government's intention that clause 57(4) will cover those bodies that received financial support through tobacco advertising prior to the commencement of the Tobacco Products (Control Act) 1986?

The Hon. R.I. LUCAS: I will need to take advice from the Minister for Health to find out what the intention was in relation to this issue.

The Hon. Anne Levy: When is he back?

The Hon. R.I. LUCAS: He is already back but he is not here at the moment.

The Hon. Anne Levy: Why is he not here?

The Hon. R.I. LUCAS: The Minister for Health does not sit in the Committee stages of the debate.

The Hon. Anne Levy interjecting:

The CHAIRMAN: If the honourable member wants to argue it, she can do it outside the Chamber.

The Hon. R.I. LUCAS: Can we conduct this in a reasonable fashion? I am suggesting a process. The honourable member has raised an important question. I have said that we need to consult the Minister for Health as to what was intended or whether it is something that needs to be tidied up by way of an amendment. We remain open to that. I am suggesting a process which does not cut off anyone's options in relation to the issue. We will not get to clause 57 tonight. If there are flow-on effects for other clauses, with the agreement of all members we can recommit to allow members to pursue their issue to the end if they have to. I cannot answer the honourable member's question at the moment, but I am happy to seek advice overnight and provide the answer when we meet again tomorrow morning.

The Hon. A.J. REDFORD: I understand the difficulty that the Minister for Education has, although it puts me in difficulty because I have a series of questions which are predicated on that answer. However, on the basis of the Minister's undertaking that we will be able to recommit clause 2 at some stage tomorrow, I will accept that. However, I must say that it will make it a very long and convoluted process because I had a lengthy series of questions to put in relation to the application of that clause.

Clause passed.

Clause 3—'Objects of the Act.'

The Hon. ANNE LEVY: The objects of the Bill, as stated in clause 3, are as follows:

> In recognition of the fact that the consumption of tobacco products impairs the health of the citizens of this State—

I have no argument so far—

> and places a substantial burden on the State's financial resources, the objects of the Act are [amongst other things] to. . . secure from consumers of tobacco products an appropriate contribution to State revenues.

What is meant by 'appropriate'? Most people accept that smoking is a habit which can be detrimental to people's health. This then results in health costs being borne by the State's financial resources. But then we are told that this is to ensure that smokers provide an appropriate contribution. As I indicated in my second reading contribution, cost-benefit analyses have been conducted, one of which I detailed in my second reading contribution, which show that in effect consumers of tobacco are currently contributing far more to the State's coffers than the extra health costs which the State must pay as a result of their tobacco consumption.

It seems to me that 'appropriate' is not the appropriate word to use. The Government has extracted, and continues to extract, from those who smoke tobacco licence fees and taxes which are more than three times the extra burden that is placed on the State not just through health costs but also as I detailed this last night and asked questions about, to which the Minister made no reply in his contribution today.

Currently, smokers are in fact subsidising those who do not smoke by providing back through tax far more than they cost the State. By 'appropriate', is it meant three or four times what the cost is to the State from consumers of tobacco products? It would seem to me that an appropriate contribution would be to make up the costs which are caused. I would view that as a logical way of reading what is in the Bill. However, that would mean a decrease in tobacco taxes if smokers were only to make up the extra costs which they caused the State. It would seem to me that 'appropriate' suggests that that is the morality of the situation.

I do not feel that by any stretch of the imagination an appropriate contribution can be taken to be three or four times what the costs are. That is not an appropriate contribution: that is a punitive contribution, if that logic is being used. What is meant by 'appropriate'? Does the Minister feel that the use of the word 'appropriate' is appropriate given the facts of the contributions through tax by smokers, and would he not agree that, if the tax regime stays as it is or as is proposed in the Bill, 'appropriate' should be replaced by the word 'punitive' or else removed altogether?

The Hon. R.I. LUCAS: I think 'appropriate' is appropriate, and I do not support it being replaced with 'punitive' or anything else. 'Appropriate' is, in the end, a subjective judgment that will be made by members. My judgment is that the majority of members in this Chamber would support the use of 'appropriate'. The honourable member might not, and

that is her right. There is probably nothing I am able to do or say in this debate, given the honourable member's strong views on the legislation, to convince her about this issue. Frankly, I do not think it is the be all and end all of this piece of legislation. It does not change one bit what is likely to impact upon consumers or anybody else in South Australia, frankly, whether we change 'appropriate' to 'punitive' or whatever. It is a descriptor; it is a subjective judgment. The Government has made the judgment that 'appropriate' is appropriate, and the Government will not be supporting the amendment.

The Hon. ANNE LEVY: If the Minister feels that an appropriate contribution is three times the amount in tax which is a cost to the Government, can he say why he feels that a contribution three times the cost is appropriate? Why is three times the cost an appropriate contribution?

The Hon. R.I. LUCAS: I have indicated the Government's position on this. There is not much more I can add. 'Appropriate' is a judgment the Government has taken in relation to this particular issue. The honourable member may not agree with that judgment of 'appropriate', but there is not much I will be able to do about it.

The Hon. ANNE LEVY: I accept that the Government takes it that it is appropriate that consumers should have to contribute three times what they get back in costs from the Government. Can the Minister tell me why the Government judges this three-fold factor to be appropriate? Why three times, and not four times or two times?

The Hon. R.I. LUCAS: The honourable member makes her own assumptions and judgments. She cannot impute those to the Government or to me as a Minister. We have made the judgment that 'appropriate' is appropriate: that is a judgment for the Government to take and we have taken that judgment.

The Hon. SANDRA KANCK: I move:

Page 2, line 5—After 'young people' insert ', by at least five per cent per year for 10 years from the commencement of this Act'.

I am quite happy with the objects of the Act as written in here. In fact, I do beg to differ with the Hon. Anne Levy about this issue of appropriateness, because it is not just an issue of health costs. In fact, I raised that matter yesterday in my second reading contribution. I thought that that was one of the flaws in the Minister's speech introducing the Bill at the second reading stage, because it did refer only to health costs, when many other costs are involved.

The Hon. Anne Levy interjecting:

The Hon. SANDRA KANCK: I have read the same article but there are still many other factors that can be included and should be included, not least of all the early deaths, and I do not know how you actually put a cost on that.

The Hon. Anne Levy: They are savings.

Members interjecting:

The CHAIRMAN: Order! Before the honourable member buries herself, I suggest—

Members interjecting:

The CHAIRMAN: Order!

The Hon. SANDRA KANCK: I have indicated that I am quite comfortable with the objects of this legislation and, in this part of the measure, I am seeking to put in a budget. One of the objects of the Bill is to reduce the incidence of smoking and other consumption of tobacco products in the population, especially by young people, but we need to have a target if this is to be realistic. I do not know whether we are aiming for the moon, but it is my suggestion that it should be at least 5 per cent per year for 10 years from the commencement of this legislation.

If the Government were to aim for that, it would result in a sizeable reduction in the incidence of smoking and the consumption of tobacco products in this State. The Government may be aiming lower than that, in which case I invite it to amend my amendment to the lower amount. Unless we set a tangible target, we will have nothing against which we can measure the outcomes, and that is my purpose, to set a target that is realisable, quite feasible and something towards which the Government can aim. If it were able to achieve it, it could give itself a pat on the back. It does not mean that the Government is necessarily committed to anything as a result of this, but it provides a clear target.

The Hon. R.I. LUCAS: I am advised that the Government supports the sentiment behind the honourable member's amendment, but the Government's view is that it is impracticable and potentially inflexible for such specific targets to be included in the legislation. The Government has no objection to the directional cause that the honourable member is talking about. My recollection is that, in the broad policy documents that Parties set, sometimes they will talk about the percentage changes for which they are aiming, if they want to be brave about things, and occasionally they do, but the Government's view in relation to legislation is that it is a bit inflexible to put it in there. So, reluctantly as always, the Government is not prepared to support the honourable member's amendment.

The Hon. R.R. ROBERTS: The Opposition does not support this amendment. Like the Government, we understand the sentiments but, while it is laudable, that level of detail in the objects of the legislation is impracticable. Some of the measures in this Bill will come into operation with respect to restaurants in 1999 and some of the logic behind those measures has already been explained. We are looking for self-regulation and we will be looking at a whole lot of things that can be achieved and a methodology that can be put in place to reduce the consumption of tobacco.

If we are talking about allocating more funds for the education of young people about the dangers of smoking and for research into the effect of smoking in South Australia, we should move more quickly. My preference would be to stop young people smoking within 12 months, but that is impracticable. We have to approach this in a sensible way and do things at a pace that is achievable. They are laudable things to write down but they are impracticable and we do not support the amendment.

The Hon. A.J. REDFORD: Does the Government agree that the functions of the Sports Promotion, Cultural and Health Advancement Trust, sometimes known as Living Health and at other times as Foundation SA, set out in clause 57 enhance the objects set out in this clause in relation to the incidence of smoking in the population?

The Hon. R.I. LUCAS: I ask the honourable member to further explain his question. What does he mean by asking whether the provisions enhance the objectives of the Bill?

The Hon. A.J. REDFORD: Clause 57 provides that the functions of the trust are to promote and advance sports, culture, good health and healthy practices and the prevention and early detection of illness and disease related to tobacco consumption, etc. The clause that we are currently debating says that one of the objects is to reduce the incidence of smoking and other consumption of tobacco products in the population, especially amongst young people, and we then have the amendment by the Hon. Sandra Kanck. Does the Government agree that the purpose of the Sports Promotion,

Cultural and Health Advancement Trust is consistent with that object and that part of the responsibility of the trust is to ensure that that objective is achieved?

The Hon. R.I. LUCAS: I am advised that the answer is 'Yes'.

The Hon. A.J. REDFORD: I have some real concerns. In my second reading speech I asked whether or not this trust had any specific objectives and the response I got was that its objective was to achieve 100 per cent smoke free at every event that it sponsors. It would seem that it would be incumbent upon any institution, if it is to be properly evaluated, to have those objectives. It concerns me that there appears to be a failure on the part of Foundation SA to set out specific and clear objectives, other than the ones that the Minister expressed to this place, which I suggest are vague, uncertain and lead to a lack of accountability. I wonder whether the failure on the part of the foundation to set out clear and specific objectives so that we can measure its performance might be enhanced by the sort of amendment that the honourable member has moved.

The Hon. R.I. LUCAS: The Government's advice and position, as I indicated earlier, is that the answer is 'No'. In relation to the objective—or whatever the word was—in response to the honourable member's question earlier about 100 per cent removal, which he indicated was in relation to public events that Living Health sponsors and with regard to its objective, it is clearly broadly consistent with the overall goals of the legislation.

Obviously the broad functions or objects of the Act we are talking about are all encompassing. I think that there were 55 projects or events that Living Health sponsored in the last year. It had over 100 applications and ended up sponsoring 55.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: Whatever the number is. Clearly it does not cover the whole of South Australia, as the objects of this Act are geared towards in terms of all people, in this case all young people, whether they are attending an arts, recreational or cultural event sponsored by Living Health. I do not see any raging inconsistency between the objects of the Act and section 57, but there may well be judging from the criticism of the honourable member and other members of the way Living Health goes about its daily tasks. That matter will be explored, I presume, by members during the clauses of this debate, as other members have explored in other forums in the Parliament also.

The Hon. A.J. REDFORD: Will Living Health set out specific measurable targets so that it can be properly held accountable by members of Parliament and the executive arm of Government?

The Hon. R.D. LAWSON: I see from the latest annual report of Living Health that it specifically says on page 8, wherein the aims of the organisation are set out—and it is said that they were revised during the 1995-96 year—that these aims will be carefully incorporated into the new strategic plan, which was under development and will lay the groundwork for the future of the organisation. Will the Minister advise members in due course whether that strategic plan has been adopted and whether it is available for perusal because, as I understand what the Hon. Angus Redford is getting at, it might well be answered by that plan.

The Hon. R.I. LUCAS: I thank the Hon. Mr Lawson for his assistance in relation to that issue. Obviously, I do not have a response to his question and the Hon. Mr Redford's question at this stage. I will endeavour to get a response, if that is possible by tomorrow, but if it is not certainly I am prepared to give an undertaking to correspond with both members on the issue, which will allow both members the opportunity to pursue this issue in future.

The Hon. SANDRA KANCK: If the Minister rejects my amendment, by what sort of standard will the Government decide that it has had success in the incidence of smoking? I am suggesting a 5 per cent measure. Is there some level at which the Government would say, 'We had success'? Is it looking for a 1 per cent drop in the incidence of use in the next 12 months or is it looking for 1 per cent over the next five years? What measure will the Government be using to judge its success?

The Hon. R.I. LUCAS: My understanding, as I indicated to the honourable member earlier, was that in the Minister for Health's policy document, which formed the basis for his preventative health programs for this current four year period and leading to the year 2000, the Liberal Party when in Opposition had endorsed a broad strategic objective of—and I am relying on memory—a 20 per cent reduction by the year 2000.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: Members cannot have their cake and eat it too. They are asking for policy directions and goals. It is a separate issue if they then want to talk about whether they have been achieved. We are talking about the objects of the Act. The honourable member is asking sensible questions about the policy objectives. The advice the Government is giving the honourable member is that this sort of broad strategic direction, from the Government's viewpoint, is not appropriate to be inflexibly located in an Act, but is more a broad policy direction, or, in the case of Living Health, it might be their strategic plan. Hopefully by tomorrow, I will be able to dust off the appropriate document which I am vaguely recalling from memory regarding the Government's overall preventative health goals in relation to the extent of smoking.

It is the Government's position that is a policy direction to indicate broadly what we are attempting to do and the Government will use a variety of measures to try to get to that particular policy goal, some of which are outlined in the Tobacco Products Regulation Bill, but there may well be other ways of achieving a broad policy goal other than through this piece of legislation. This is not the be all and end all of attacking smoking in the community. That is as best I can give the honourable member this evening in terms of the Government's position on the objects of the Act and the policy objects of the Government.

The Hon. A.J. REDFORD: Does the Government support specific, measurable, identifiable, numerical objectives in so far as the trust is concerned?

The Hon. R.I. LUCAS: I am not the Minister for Health, and again I will need to take specific advice from the Minister for Health, but my guess would be that the answer would be 'Yes.' The Minister for Health is not present and I am not able to indicate specifically and directly his response to that question, but my view would be that it would be consistent with the Minister for Health's overall policy objectives in terms of a specific numerical target. As I said, I thought it was 20 per cent by the year 2000. He has set an overall goal for the Government in terms of a broad policy objective, which is specific and measurable, and I would therefore be surprised if he did not also support Living Health having similarly measurable targets.

As the Hon. Mr Lawson has kindly shared with us, it has used language broadly similar to that and has indicated that that will be included as part of its strategic plan. The Hon. Mr Lawson has appropriately asked whether or not that plan has yet been released and concluded, and I am not in a position to answer that. I have undertaken to get that information before tomorrow if I can, and if I cannot get it before tomorrow to correspond with the Hons Mr Lawson and Mr Redford in relation to that issue.

The Hon. A.J. REDFORD: I do appreciate that the Minister for Health is not in this place, but this is the only place I can ask questions. Have specific measurable standards been adopted by Living Health in the past and, if so, what were they? This is similar to the question I asked in my second reading contribution. If not, why not?

The Hon. R.I. LUCAS: The honourable member asked that question in the second reading debate and I indicated half an hour ago that I did not have a reply. I still do not have a reply half an hour later. All I can do is undertake to try to get the responses by tomorrow. If I cannot, we can either hold up the legislation for another day or the Minister for Health or I can correspond with the honourable member in the break between this and the next session. I am in the hands of Committee members in relation to how we progress the matter, but all I can say is that half an hour ago I indicated to the honourable member that I had no more response than what I was able to share with him, and half an hour later I am not able to offer any more than I did then.

The Hon. A.J. REDFORD: I will not labour this, but I make the point that the reason I am annoyed is that some 18 months ago I asked specific questions of this body and I am yet to receive answers. As a member of Parliament that really annoys me, as it would most other members.

The Hon. R.D. LAWSON: It might assist the Hon. Angus Redford and allay some of his concerns if I note that the annual report of Foundation SA, now Living Health, does describe the performance evaluation mechanisms employed by the body in sponsorship for health promotions. It states:

> In addition to carrying out the program of events or activities outlined in their applications, sponsored organisations are required to fulfil the agreed health promotion obligations negotiated in return for sponsorship dollars. Applicants are required to present a standard evaluation form [after the program], and to provide:
>
> · A succinct final report which provides an assessment of health promotion value.
>
> · Financial performance indicators.
>
> · Effectiveness of the funding in furthering program objectives.
>
> · Effectiveness of the funding in furthering the objectives of the organisation.

If the body concerned has no reason to doubt that it fulfils its own criteria, that should allay to some extent the sort of concerns that the honourable member is expressing.

The Hon. A.J. REDFORD: I do understand what the Hon. Robert Lawson is saying; it is not precisely what I am asking. For the record, I did ask about this in my second reading contribution. Normally we have more time to spend on these matters, and that does not reflect on anything I have done. I suggested that there had been an increase in revenue from June 1993 through to the year ending June 1996, and I asked whether that reflected an increase in consumption and whether it was indicative of a failure on the part of Living Health or Foundation SA in its object of decreasing consumption. If it cannot be held accountable in this place, where can it be held accountable?

The Hon. SANDRA KANCK: I indicate my disappointment at both the Government's and the Opposition's lack of understanding of what this measure intends to do. The Hon. Mr Roberts said it was impracticable and the Government said it was inflexible. Let us look at those two things. When you have a budget of any sort you say, 'This year we intend to spend—or save—X thousands of dollars.' At the end of the year, because you said you were going to spend—or save—X thousands of dollars, you look at it and say, 'Did I achieve it? If you did not achieve it, you then look at the reasons why. Unless you have a target, you have nothing against which you can measure it. That is what budgets of all types do. In effect, this is a budget. No budget is impractical.

The Hon. Anne Levy interjecting:

The Hon. SANDRA KANCK: Yes, a business plan—whatever words you like to use. It sets some goals against which you can measure your success or lack of it. It is very important if we are saying that this is the principal object of this legislation—to reduce the incidence of smoking and the consumption of other tobacco products—to have something against which you can measure it. By failing to include an amount—and, from what the Hon. Mr Lucas has said is the Government's target, we might be looking at 3 per cent a year—you cannot measure your rate of success. The Government also said that it is inflexible. If you put in 3 per cent, the worst that can happen is that the Democrats will ask in Parliament why you did not meet the 3 per cent target. There is nothing inflexible about it. It allows you to go above or below the amount and, if you do not meet the target, people can ask why. It seems to me that both the Government and the Opposition, either deliberately or accidentally, have failed to understand the need to include a figure like this. I do not know whether they are just choosing to be obtuse but I am very disappointed that they have taken that point of view.

Amendment negatived.

The Hon. SANDRA KANCK: Clause 3(b)(v) provides that part of the way that one goes about reducing the incidence of smoking is to provide funds to sporting or cultural bodies in place of funds that they might otherwise have received through tobacco advertising and sponsorships. This probably takes something out of the existing Act and throws it into the current Bill. Is it still a relevant principle by which to operate? Is the replacement principle still something that is now necessary in any form of tobacco legislation?

The Hon. R.I. LUCAS: My advice is that the Government does think it is appropriate. As the years go by presumably it will be less significant, but my advice is that there are still some associations or organisations that some years previously were attracting sponsorship funding and money. I am advised that one of those is the Cricket Association, which still attracts funds. This is partly related to the question which the Hon. Angus Redford asked and which we are following up overnight to see whether or not clause 57 should be amended.

Clause passed.

Clause 4—'Interpretation.'

The Hon. R.R. ROBERTS: I move:

> Page 3, lines 6 and 7—Leave out the definition of 'Fund'.

This definition is to be taken out after consultation with my colleague the shadow Minister for Health in another place and Parliamentary Counsel. I am told that this is necessary to achieve our aim and that of the Democrats in hypothecating funds from the extra taxation. By removing the definition of 'Fund' it will allow the creation of another fund, which both my Party and the Democrats agree ought to be set up under the auspices of the South Australian Health

Commission. We differ on the detail of the way we put it out, but basically we agree that there ought to be the ability for extra funds raised through the taxation measures in this Bill to be hypothecated to a new fund to concentrate on specific areas of activity.

The Hon. SANDRA KANCK: The Democrats will be supporting the amendment. As the Hon. Mr Roberts has observed, we have some similar amendments later about how this money should be used. I have a suspicion that the Labor Party has more numbers than I have on this one, and its amendment will probably get up. However, we are moving towards the same purpose on this and, therefore, we support the amendment.

The Hon. A.J. REDFORD: This is great! This is the ALP and its new competition policy. We have a Sports Promotion, Cultural and Health Advancement Trust and it has all the functions set out in clause 57, namely, to promote and advance sports, culture, good health, to reduce tobacco consumption, and various other things consistent with the objects of the Act. Members opposite reckon that Living Health is not performing so well, and I might even have some sympathy with that. But along come members opposite with their answer to the problem. Here they come with their competition policy. They want to set up another Government-run body to do nearly precisely the same as Living Health does.

The Hon. Anne Levy: It is part of the Health Commission; it is not a new body.

The CHAIRMAN: Order! The Hon. Angus Redford can answer the question as he likes.

The Hon. A.J. REDFORD: It is not a new body; it is the Health Commission, designed to do precisely the same as Foundation SA, Living Health or whatever name members opposite want to give it.

Members interjecting:

The CHAIRMAN: Order!

The Hon. A.J. REDFORD: It has precisely the same objective as that. One wonders whether members opposite have properly read the Bill. It talks about undertaking education, publicity programs and research, all things that can be done within the context of the trust. What really surprises me is that the Democrats will go along with it. It proves to me that numbers are not always right, and that applies right across the board, even in Party rooms and Caucuses.

The Hon. R.I. LUCAS: It is probably appropriate that we use this as a test case on the whole package of amendments on hypothecation. I suspect that we will end up at a conference of managers between the Houses. This will be an issue of principal conflict between the Government and the Opposition Parties. The Government's position on hypothecation remains the same. In fact, it is much the same as the principle that the Hon. Frank Blevins used to expound at length in this Chamber and in another Chamber as to why hypothecation never works.

The Government does not support the proposition of hypothecation. The Hon. Angus Redford has eloquently indicated some of the dilemmas with the proposition we have before us. I am told that the Government intends to fund increased education and publicity programs to reduce tobacco smoking, particularly amongst young people. In addition, there will be an enforcement of the provision relating to the sale of tobacco to minors. It is an area to which the Government intends to give priority. Clearly, there will need to be discussion within the Government in relation to the allocation of any additional funds for the programs.

The Hon. P. HOLLOWAY: I support the amendment moved by my colleague the Hon. Ron Roberts. We will soon discuss clause 7, which is the 'guts' of this Bill, under which the Government will appropriate an additional $5 million plus in taxation. That is what this Bill is all about, as I said during my second reading contribution. The clause that we are debating now is a test clause not only of the principle of hypothecation but of the honesty of this Government. This Government tells us that this Bill is all about health. If it is all about health, what will it do with the extra money that it raises? We are simply holding this Government to its word. If what is motivating this Government to bring this legislation before us this week is health—and that is what it tells us—the Government should have no objection to the additional money that it raises being put towards health purposes. That seems to be a fairly logical proposition.

If everything the Government has told us is true, that health is its sole motivation, that this Bill has nothing to do with revenue raising or ripping off an extra $5 million from the smokers of this State, why is the Government not prepared to put its money where its mouth is and ensure that this money is put back into such purposes—which we will see later when the details of this fund are discussed—as preventing children in our schools from taking up smoking? As I said yesterday during my second reading contribution, we have heard a lot of hypocrisy from this Government about this Bill. It will raise a lot of extra money, but when it comes to genuine health issues it beats around the edges.

When it comes to the real substance of actually doing something to prevent young people smoking, which is what this hypothecation could do, the Government does not want to have a bar of it. So, I have great pleasure in supporting this amendment. However, I again point out that the Opposition will oppose the entire additional tax increase. If we do not get it, there will be no money, but at least the Opposition will be consistent and will hold this Government accountable, so that if it intends to rip off extra money at least that money will go to the purposes for which the Government claims it should be used.

The Hon. A.J. REDFORD: I appreciate that the Hon. Ron Roberts and the Hon. Sandra Kanck have moved similar amendments, but did either of them have the wit or the foresight to consider moving an amendment to clause 57 by extending the objects of Foundation SA or Living Health to include some of these issues? If they did have the wit, why did they not do it?

The Hon. SANDRA KANCK: I assume that that is supposed to be some sort of reflection on my intelligence. However, I have taken as my guide throughout this matter representations that have been made to me by the Anti-Cancer Foundation. I do not know whether all members have received this correspondence, but the Anti-Cancer Foundation wrote to me on 24 February and said that it was pleased with the moves the Government was making in relation to the so-called tar tax. The letter states:

> The National Heart Foundation and the Anti-Cancer Foundation support these moves on the basis that any increase in the price of cigarettes should discourage consumption and therefore lead to less tobacco caused disease, which is the stated intention of the Tobacco Products Regulation Bill 1997. However, we should point out that these steps alone cannot be expected to cause a significant decline in smoking prevalence, as price increases are just one component of a comprehensive tobacco control plan.

I point out that overseas experience backs that up. The letter states further:

We recommend that the Parliament should not rely solely on the tiered tar licence fee structure to deliver the best possible health outcome. We encourage you to support an amendment which would significantly increase the amount of money spent on tobacco education and publicity campaigns to a minimum of $5 million per year.

These people are the experts in this area. They are liaising with people all around the world, and they know what sort of campaigns work. Therefore, regardless what the Hon. Mr Redford may think of my wit or intelligence, I think I am being guided by some very erudite people.

The Hon. R.R. ROBERTS: The reason this proposition was included was that we had been given prior intelligence that these tax measures would be introduced. My colleague the Hon. Paul Holloway has explained very simply the logic behind that. If we say it is a health Bill and we will raise more money for health, it ought to be hypothecated to health. The questioner wanted to know why we did not do something about the objects of the Bill and the functions of Living Health. The Hon. Angus Redford rabbited on about Living Health. I think it is time someone stood up for Living Health, because it has done some very good work over the years.

One might argue that it could have done better, but it has done a pretty good job. It has actually reduced the incidence of smoking in older people, but it has some very stiff competition from the new trade, the young people. We are saying that there should be an emphasis on any hypothecated fund to that end. Quite clearly, we have anticipated what will happen. The Hon. Angus Redford has a particular fetish about Living Health. He has been rabbiting on about the objects of the Bill. He says that we ought to have had the wit to do something about it, but he sat over there, full of his own importance and rabbiting on all night but he did not have the wit or the wisdom to include anything in the Bill or move an amendment himself. The Hon. Angus Redford sat there pontificating.

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.R. ROBERTS: This clause has been explained and, when we discuss the tax measures in clause 7, I will be delighted to move that clause 4 be recommitted, because we will have achieved what we wanted and we will not have to put another impost on the low income earners in South Australia by hitting them with another tax. That is the situation. That is how we got here today. We have actually thought it through. People much smarter than I am, my colleague in the other place the Minister for Health, has worked this matter through with Parliamentary Counsel, and this is a procedural matter.

The CHAIRMAN: Order! Before the Minister speaks, a fair amount of adrenalin is in the Chamber—perhaps a cigarette might calm down a few members. The language across the Chamber in Committee is not necessary. I think we can debate the Bill without that emotion. Emotion does not help in Committee. I do not mind emotion in the second reading stage but, in Committee, I suggest that members stick to the facts and leave out the personalities.

The Hon. R.I. LUCAS: The Hon. Sandra Kanck talked about the importance of funding for education and promotion programs to stop young people from smoking, and some of the ideas from agencies. I think everyone agrees with that. Realistically, it is an enormous task, and any of us who have had any experience with young people, whether it be within our own family or friends of our own family, will know that, irrespective of how much education you bombard them with, sometimes young people take their own decisions for their own reasons and continue to do so, as we are seeing in increasing numbers.

We will all obviously endorse continuing efforts in the area but it is an enormous task, and certainly not an easy task. The Hon. Mr Holloway indicated in forceful words that he wanted to keep the Government honest in relation to health issues. I have a friend going back over many years who was a senior marketing executive with one of the biggest tobacco companies internationally and through a lot of discussions with him I have some understanding of the marketing strategies of tobacco companies.

There is no doubt that the research that is available to the tobacco companies shows that there is some price elasticity in relation to the demand for cigarettes, in particular amongst young people, and that, if the price of the product increases significantly, it has some impact on the demand for and the consumption of cigarettes. When one looks at overall consumption figures, one needs to be careful, as that does not necessarily measure the impact of a significant price increase on existing young consumers because, as the Hon. Mr Roberts indicated—or as someone indicated—there are increasing numbers of new young consumers coming onto the market all the time. So, you are not necessarily comparing like with like.

Certainly, the research available to the tobacco companies and their marketers indicates that there is some price elasticity and that a significant increase in the price of cigarettes will have some impact on young people's consumption. Young people, particularly if they are studying—and we are talking about the 13 to 17 year olds who are still at school—and they have a little pocket money from their family and maybe some money from part-time employment, if they have a relatively fixed income and they are spending part of their fixed income on tobacco products, the higher the price in relation to that fixed income, the fewer the cigarettes they will be able to consume, unless they divert some of their funding from entertainment, food, clothes or other parts of their consumption pattern back into tobacco products. So, whilst I can see the point that the Hon. Mr Holloway makes, he does miss the point that it is not the only way of affecting tobacco consumption; it is not the only way of pursuing health goals. If the Hon. Mr Holloway thinks that is the only way you can influence consumption of tobacco products amongst young people—that is, to fund a health promotion program—he is sadly misguided. It is one way, and I am not arguing with that, but there are many other ways if you are going to try to combat consumption amongst young people.

The Hon. P. HOLLOWAY: I will answer that point. It may be true that spending on health campaigns may not be the only way to reduce smoking, but I would argue that it is one of the most effective ways, if not the most effective way, of doing it. As evidence, I would like to say a little bit about the experience of Quit campaigns and similar anti-smoking campaigns in other States and overseas. It is my understanding that the best such campaign in this country at the moment is in Western Australia, where $2 million a year is spent on anti-smoking campaigns, compared with only $600 000 in South Australia. Western Australia, although it has a much younger population than this State, has the lowest smoking rates in the country. The Northern Territory, with one-fifth of our population, has recently increased its commitment, and now spends $500 000 a year, almost as much as this State spends with a much smaller population. So, other States are spending more on these campaigns, but what is important is

that they have obtained much better results. Whereas in South Australia the number of children who are smoking has remained fairly static, it is my understanding from the people who compile these statistics that levels in other States have fallen. Similarly, in California there was a hypothecated tax increase in 1988 and the legislature mandated $3 a head to be spent on a smoking and health program, as a result of which the level of smoking in California fell by 20 per cent in five years. So, on present trends it is falling—

The Hon. A.J. Redford: Did they deal with the legislation with the same degree of urgency as they did—

The Hon. P. HOLLOWAY: No, I suspect they put a lot more effort into it, and they probably had a much more intelligent Minister handling it than we have here. I am sure they did things a lot better.

The CHAIRMAN: Order! Members should not refer to members in the other Chamber in that fashion, and I ask that that comment be withdrawn.

The Hon. P. HOLLOWAY: Yes, I withdraw and apologise, Mr President. I should not have been provoked by the honourable member's interjection. Nonetheless, the point stands that I think in those other States where they have thought about this much more carefully and where they have put substantial resources into dealing with the problem they have had much better results. So I think that, while the measures that the Opposition and the Democrats are proposing may not be the only way of addressing the problem, they are one of the most effective ways it can be done and far better than what has been done previously.

Amendment carried.

The Hon. J.C. IRWIN: I refer to the interpretation of 'smoke' in clause 4. It is probably not appropriate for a non-tobacco product which may nevertheless be a smoke to be included in this legislation. How in this legislation will a product which emits smoke be controlled? I have not smoked it, but I assume that marijuana does emit smoke, although perhaps it is not called smoke. If there is no control in this legislation, why is there none?

The Hon. Anne Levy: This relates to the verb 'to smoke'.

The Hon. R.I. LUCAS: Does the honourable member want to come over here and answer the question? Some people can never forget that they have lost government. The advice I am given is that 'smoke' means 'smoke, hold, or otherwise have control over, an ignited tobacco product', and on page 4 'tobacco product' is defined as 'a cigarette, or cigar, or cigarette or pipe tobacco, or tobacco prepared for chewing or sucking, or snuff, or any other product containing tobacco'. My advice is that that does not include marijuana.

The Hon. J.C. IRWIN: Where in the legislation does it pick up the smoke emitted from marijuana or some similar product that is not tobacco? It might be rolled up paper or what we used to use way back—

The Hon. Anne Levy: They are all right.

The CHAIRMAN: Order!

The Hon. J.C. IRWIN: I know. If smoke from those products is not dangerous, that is fine but, if it is, why do the definitions not mention products other than tobacco?

The Hon. Anne Levy interjecting:

The CHAIRMAN: The Hon. Anne Levy has done nothing but interject. I ask her to cease interjecting. Otherwise, we will be here all night, all day tomorrow and possibly on the weekend. I suggest that she control her emotions for a little while.

The Hon. R.I. LUCAS: I am advised that the Controlled Substances Act controls smoking or consumption of marijuana in a public place, which includes a motor vehicle, and it carries a maximum fine of $500 and is accompanied by a criminal conviction. There is therefore no need for the honourable member to be concerned about smoking of marijuana in a public place not being covered by this legislation. It is covered by the controlled substances legislation and carries a maximum fine of $500 and is accompanied by a criminal conviction.

The Hon. ANNE LEVY: I certainly hope that you, Sir, will not suggest that I cannot ask questions all night if I wish.

The CHAIRMAN: No, you can do that, through the Chair. The honourable member has my support.

The Hon. ANNE LEVY: Mr Chair, I thank you for confirming my rights under Standing Orders.

The CHAIRMAN: I hope you remember what you just said: that we are operating under Standing Orders.

The Hon. ANNE LEVY: Yes, and I hold very firmly to Standing Order 193.

The CHAIRMAN: Except when you sit down.

The Hon. ANNE LEVY: I have the call, Mr Chair, and in response to your comment I hold very strongly to Standing Order 193, under which no injurious remarks or reflections may be made on a member of this House any more than on a member of another House. Your comment earlier suggested that it applied only to members of another place, because members here could defend themselves. However, under Standing Order 193—

The CHAIRMAN: Order! The honourable member is not debating the subject at hand.

The Hon. ANNE LEVY: It was not I who raised the question—

The CHAIRMAN: Order, the Hon. Anne Levy! I ask her to address the question of the Bill at hand.

The Hon. ANNE LEVY: I am happy to do so, Mr Chair, and I hope there will be no comments from any member that do not relate to the Bill in hand—

The CHAIRMAN: I will decide that.

The Hon. ANNE LEVY: —and that this rule does not apply only to me.

The Hon. G. Weatherill interjecting:

The CHAIRMAN: Order, the Hon. George Weatherill!

The Hon. ANNE LEVY: I have a question in relation to the definition of the word 'consume', which is a verb and includes paragraph (d) 'give away'. That is a rather unusual use of a definition. In common parlance, 'consume' certainly does not mean 'give away'. As I understand it (but I am obviously not as familiar with the Bill as the Minister should be, and as his officers doubtless are), the word 'consume' or 'consumption' is used in the legislation only in respect of Division 2, where there is discussion about consumption licences, and I think in clause 9(1) and (2), where the word 'consume' is used. I wonder why in clause 9(1) and (2) the word 'consume' is taken to have a meaning quite contrary to any English dictionary: that consume means to give away. If I give someone a gift, I would not say that I was consuming it.

The Hon. R.I. LUCAS: I am advised that unless we define 'consume' in this way we will be opening up a huge loophole in the legislation, that is, people will be able to purchase tobacco products and give them away, and the people to whom they give them would be able to consume the product without having actually bought it. Unless the honourable member wants to open up a loophole in the legislation in relation to the administration of this particular Act, the strong advice from the officers is that this definition

was in the previous legislation that was introduced and overseen by the previous Labor Government for most of the past 10 years. So, a Government of the honourable member's persuasion actually defined it in this way and we are continuing the definition of the Labor Administration for the reasons that I have outlined.

The Hon. ANNE LEVY: I am sorry; I do not follow the answer which the Minister has given me. I thought under clause 9(2)(b) that people can smoke or consume any product which they have been given. Gifts of tobacco are permissible, and the people who receive tobacco as a gift can smoke it.

The Hon. T.G. Roberts: OP's are the best you can get.

The Hon. ANNE LEVY: Yes, it is generally agreed that OP's are the best cigarettes you can get. I do not see why, when there is that exemption for giving away, the word 'consume' has to include the stretched meaning of 'giving away'.

The Hon. R.I. LUCAS: My advice is that people can obviously share a cigarette with another person but that if they purchase large quantities of cigarettes and give them to someone else to get around the legislation they would then become tobacco merchandisers and would not then be protected by the exemption to which the honourable member refers. The situation of sharing a cigarette with another person is not covered by this clause; however, if you buy 10 000 packs of cigarettes and give them to the Hon. Terry Roberts or to the Hon. Diana Laidlaw you would be a tobacco merchandiser and you would not be sharing a cigarette with them. This exemption would not cover you under clause 9(2).

The Hon. ANNE LEVY: I am sorry; I was not aware that there was a limit to the size of a gift. Apparently, I can offer Di Laidlaw one cigarette; I presume that I can give her a carton of cigarettes for Christmas. Can I give her two, five, 10, 20 or 100? What is the limit? Surely, if I have legally obtained these cigarettes I am at liberty to give away however many I wish to whomever I wish without being in danger of breaking the law.

The Hon. R.I. LUCAS: My advice is that if the Hon. Anne Levy, in her generosity, purchases her product from a retail outlet, whether it be one cigarette or 1 000 cigarettes, she can give them to the Hon. Diana Laidlaw. However, if she purchases them from an unlicensed distributor and gives 1 000 cigarettes or whatever the number might be to the Hon. Diana Laidlaw, she will then be caught up in the merchandising provisions, and the Hon. Anne Levy, as the merchandiser, would have to pay a consumption licence.

The Hon. ANNE LEVY: I am becoming even more confused. I thought that was dealt with in clause 9(1), which provides that I must not consume a tobacco product, which includes giving it away, apparently, unless either I hold a consumption licence or I have obtained it from the holder of a class A tobacco merchant's licence. If the word 'consume' did not include 'give away', it would mean I could not smoke a tobacco product unless either I have a licence or it was obtained from someone holding a class A tobacco merchant's licence. But it seems to me that clause 9(2) is the exception, and I do not quite see how, under clause 9(1), if 'consume' did not include 'give away', I would then commit an offence if I gave the Hon. Diana Laidlaw 1 000 cigarettes.

The Hon. R.D. Lawson: 'Give away' is not a gift.

The Hon. ANNE LEVY: 'Give away' is not a gift? I would have thought giving something away was a gift in normal English wording. I am just querying why 'consume' means 'give away' when that is certainly not the normal English language. Surely we are not taking it to the extent where 'giving away' is not a gift.

Clause passed.

Clauses 5 and 6 passed.

Clause 7—'Interpretation—Tobacco product categories and prescribed percentages for licence fee calculation.'

The Hon. R.I. LUCAS: I move:

Page 6, lines 20 and 21—Leave out 'where the average tar content as so required to be stated is less than 5 milligrams' and insert 'where the number of milligrams so required to be included in the statement as to average tar content is 1, 2 or 4'.

I am advised that the industry is concerned that the characterisation of tobacco products in this clause does not reflect the Government's intention as to the three categories. Whilst it is believed as a matter of drafting style that this is not so, nevertheless to allay industry concerns and acting out of an abundance of caution, these amendments are being moved.

The Hon. R.R. ROBERTS: I am led to believe that this amendment reflects the Federal legislation. Is that right?

The Hon. R.I. LUCAS: That is correct; it reflects the Trade Practices Act.

The Hon. R.R. ROBERTS: The first amendment seeks to provide that the average tar content to be included in the statement is 1, 2 or 4. The next amendment, and they are all basically the same, provides the number of milligrams so required to be included in the statement for an average tar content of 8. In the third amendment, reference is made to a tar content of 12 and 16. I assume that other tar contents will fall between those, but that is not the way it reads. For instance, the amendment provides for 1 and 2 milligrams, but what about something that has an average of 3? Does that fall in there? If it provides for an average of 8, what do we do with a 9 milligram or 7 milligram product?

The Hon. Anne Levy: They would be category D, which is anything else.

The Hon. R.I. LUCAS: I am advised that the Commonwealth legislation, to which the honourable member has referred, goes up in averages of 1, 2, 4, 8, 12 and 16 milligrams, so it is consistent with the Federal legislation.

The Hon. R.R. ROBERTS: Is everything between 4 and 8 milligrams an 8?

The Hon. Anne Levy: No, everything between 4 and 8 is category D, which is 105 per cent. That is everything else.

The Hon. R.I. LUCAS: I am advised that the Hon. Ms Levy's advice is a bit misleading. Category D is actually any other product. This relates to categories A, B and C.

The Hon. R.R. ROBERTS: What is a 5 or a 6? Is it an A or a B, if it is 6?

The Hon. R.I. LUCAS: I am advised that 5 or 6 is in a category less than 8 and is therefore category B.

The Hon. Anne Levy: It just says 'equal to 8', not 'less than 8'.

The Hon. R.I. LUCAS: The basis, according to Parliamentary Counsel, is that it is less than 8 or less than 4, and 5 and 6 is less than 8 and is category B.

The Hon. A.J. Redford: But it doesn't say that.

The Hon. R.I. LUCAS: Parliamentary Counsel says that it does.

The Hon. ANNE LEVY: Does this mean that 'equals' now means 'less than'? Just as 'consume' means 'giving away', we are completely changing the English language. I suggest that people who say that 'equals' means 'less than' should not try to do any mathematics—they would certainly fail the grade 3 numeracy test.

The Hon. R.I. LUCAS: The trade practices consumer product information standards for tobacco comes under the Commonwealth legislation. The particular provision here says:

> The following message must be printed on a retail package of cigarettes: The smoke from each cigarette contains on average [X] milligrams or less of tar.

We are putting in the 'X'—the 1, 2 or 4. This has to be read in conjunction with the Federal regulations which govern what appears on the packet. These Federal regulations say, 'X milligrams or less of tar'. I can understand the confusion in terms of both my explanation and what is in the legislation. The legislation needs to be read in conjunction with the Federal regulations, and clearly members do not have the Federal regulations before them.

The Hon. A.J. REDFORD: If the packet has 3, 5, 6, 7, 9, 10 or 11, is it caught by the amendment?

The Hon. R.I. LUCAS: The packet can have on it only 1, 2, 4, 8, 12 or 16 under the Federal regulations. It cannot have '3'. Even if the honourable member wants to put 3, 5, 7 or 9 on it, he cannot because the Federal regulations say that it can be only 1, 2, 4, 8, 12 or 16.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: I am told that this was requested by one of the tobacco companies in terms of confirmation. It was requested of the Treasurer by the representatives of the tobacco companies earlier this week, and that is why the Government has moved the amendment. We are not doing it as something completely out of the blue. We have been approached by one of the prominent tobacco companies which has been lobbying members and the Treasurer in relation to this issue. The Government has listened to their advice—

An honourable member interjecting:

The Hon. R.I. LUCAS: No, we did not cave in, we listened to their advice, thought it was a reasonable proposition and have agreed to put it in.

The Hon. ANNE LEVY: This is an example of how this legislation has been cobbled together in the greatest of haste without proper consideration. The fact that tobacco companies have asked for something, the AAJ has asked for something or the man in the moon has asked for something is not necessarily a reason for a Government to do something. The Government presumably acts in the public interest after consulting with various organisations, but it obviously cannot agree with all proposals which are put to it because we would end up with even more contradictory wording than we have in the Bill before us. The fact that there is this enormous confusion about this wording suggests to me that this is yet another example of the Government not doing its homework and not being able to justify what it is doing to the Parliament or to anyone else.

The Hon. R.I. LUCAS: I am advised that the draft Bill was submitted to the major manufacturers back in October last year. It was only two days ago that one of the major companies raised this issue with the Government. On behalf of the Government, I reject absolutely the claims made by the Hon. Anne Levy.

The Hon. R.R. ROBERTS: I point out that this is one of the main areas of contention and therefore this part of the debate could go on for some time. I give notice that we will oppose this clause on the ground that this is the basis for the taxation increase. I have earlier given a clear indication that we are opposed to the tax. We have also been given clear indications from other people, but I am told that we will lose.

The Hon. P. HOLLOWAY: I take this opportunity to put on record my opposition to this clause of the Bill. This is the black heart of the Bill. Clause 7 is the legislative manifestation of a broken promise. If you want to see what a broken promise looks like, it is clause 7 of this Bill.

The Hon. Anne Levy interjecting:

The Hon. P. HOLLOWAY: Maybe not, but it has certainly been broken, and in a big way. I will also comment on the Democrat stance. I understand that the Democrats are supporting this tax increase, and I think it is a very strange way of 'keeping the bastards honest', as the Democrats like to say. Here we have a Government that is breaking a promise and the Democrats are helping it to break the promise. They seem to have turned their motto right on its head. I ask the Minister, first, why is the Government breaking its promise? I think we deserve an explanation for that. I would like to know why the Government chose a three tiered tax rather than a two, four or five tiered one, and why has it chosen tar as the parameter on which this tax is based? I think it is potentially rather dangerous that the tar content should be the basis of a tax. From a health point of view it is dangerous to imply by these different tiered taxes that somehow or other the lower tar content is safer than the higher tar content. While that might be true in absolute terms, it is my understanding that it is not true in relative terms, and that there is very little difference in terms of health.

The Hon. M.J. Elliott: Who told you that?

The Hon. P. HOLLOWAY: The experts.

The Hon. M.J. Elliott: Who paid for the experts?

The Hon. P. HOLLOWAY: The people from the Anti-cancer Foundation and the National Heart Foundation. Of course a low tar cigarette will be less dangerous to health than a high tar cigarette, but my understanding is that the degree of safety is very small. It is my understanding that other factors, such as the nicotine and carbon monoxide levels, are at least equally important. So, I think we deserve an explanation from the Government about why it has chosen this means of taxation. There are many ways it could have devised the tax, but it has chosen this way.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Yes, we are opposed to it, because we do not think it is sensible, but the Minister still—

Members interjecting:

The CHAIRMAN: Order! I cannot hear what the honourable member is saying.

The Hon. P. HOLLOWAY: The Hon. Mike Elliott says we are not saying anything. He is a Democrat who is now keeping the bastards dishonest. I am not surprised that he is embarrassed by his stance, and he deserves to be.

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: He says, 'Dear oh dear', but he is the one who is helping the Government break an election promise. The questions are still important. The Hon. Mike Elliott might not believe that this Parliament deserves an explanation as to why the Government is devising a tax in this way, but I happen to think that we are entitled to that explanation, and that is why I am asking the Minister to provide it.

The other question I would like the Minister to answer is: what impact does he believe this price increase will have on demand? In other words, in economic terms I am asking about the price elasticity of demand for cigarettes. There have been enough increases in the price of cigarettes over the years to enable that question to be answered. I also ask the Government one other important question. Given that we are going

down this track of identifying tar content, presumably as a means of trying to encourage smokers to smoke more healthy cigarettes, will the Government monitor consumption within these different categories?

Are we going to measure the consumption within categories A, B, C and D? Will we be seeing whether there is any change in consumption as a result of these tax changes? If this measure is to be as successful as the Government claims it will be, it would be useful for us to measure exactly what the impact of the tax is so that we can tell in a year or two whether it has had the impact on consumption that it is supposed to have.

The Hon. R.I. LUCAS: I am advised that in the future the State Tax Office will be able to monitor the different consumption of low, medium and high tar, but obviously—

The Hon. Anne Levy: Do they know what they are now?

The Hon. R.I. LUCAS: No. In the future, with the differential tax regime the Tax Office will be able to monitor that and establish trends. If you want to find out information on the price elasticity of the consumption of tobacco products, the only people you are likely to get that from—and good luck to you—are the tobacco companies. I shared my insight earlier. I just happen to have an acquaintance who worked in marketing for one of the biggest tobacco companies in the world, and that is something that they jealously guard.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Government and the Tax Office obviously make their judgments. If you want the detailed information on the price elasticity of the various products of the major companies, the people who have that information are the major companies. The Tax Office makes its estimates and, obviously, the Government's objective will see a shift towards more people consuming low tar cigarettes as opposed to high tar cigarettes in this most important health initiative that the Government is pushing through in this legislation. Time will tell.

The Hon. A.J. REDFORD: I say at the outset that I support this measure for one reason only, that is, because it is a Government initiative. I can talk only from personal experience and from the experience of other people who are smokers. When you go to a lower tar content cigarette you tend to smoke more cigarettes and, based on my anecdotal experience, it is rare for a person to shift from one tar level down to another tar level. The Leader of the Opposition may think this is boring but it is fairly significant. I am happy for the Minister to take my question on notice. Does the Government have any evidence that the tax will shift or force people to a lower tar level? Is there any evidence anywhere suggesting that people change cigarettes and tar content based on a desire to smoke a lower tar cigarette? To what extent does that happen, and has there been any occasion in the Western World where a differential tax basis like this has achieved positive results in relation to health?

The Hon. R.I. LUCAS: Obviously, I will need to take advice in relation to the international research evidence available. As I indicated earlier, there is some research evidence on the impact of pricing on the consumption of cigarettes by young people, and therefore pricing is a related issue. I would need to take some further advice on the honourable member's question. I understand that in the second reading explanation there is a reference to successful health moves in relation to low alcohol beer and higher alcohol beer. I acknowledge that it is a different product—although I know some in this Chamber consume both at the same time, very effectively.

An honourable member interjecting:

The Hon. R.I. LUCAS: Maybe all three! I need to see what further information I can get for the honourable member. I am advised that when this announcement was made by the Government one of the major organisations—the National Heart Foundation or the Anti-Cancer Foundation—described it as one of the most significant health reforms, or something similar.

The Hon. A.J. Redford: I just want to know the real results and not the rhetoric, with due respect to them.

The Hon. R.I. LUCAS: With due respect to the honourable member, we are all interested in the real results rather than the rhetoric.

The Hon. SANDRA KANCK: As we appear to have drifted into discussing the principle of clause 7 I, too, will address that. The Hon. Paul Holloway obviously thought he was clever with his comments in his second reading contribution last night and again tonight, saying that the Democrats are keeping the bastards dishonest. I have never accepted that the Democrats' role is to make sure that every political Party keeps every one of its promises, particularly when the promises are stupid—and that was a stupid promise. Mr Holloway might also be aware that one promise the Government also made is that, when it came to the issue of management of any new prisoners, it would look at tendering it to the private sector. Does the Hon. Mr Holloway want the Democrats to make sure that the Government does that? I am sure that he does not. Perhaps I should take on Mr Holloway as my guide.

Members interjecting:

The CHAIRMAN: Order! It is about seven hours before the sun comes up, and I could just about stand here that long.

The Hon. SANDRA KANCK: In future, if Mr Holloway wants to give me his advice on which promises I should be accepting and which ones I should be rejecting, I would be delighted to have his counsel on it. However, I have a feeling that the Labor Party would not be consistent—that it would pick and choose. It certainly is with regard to this one, and it is being very hypocritical. I support this new licence fee, as the Government is calling it, or tax, as the Opposition is calling it, because of the opportunity it presents. I am aware that, at the rates of tar we have in our cigarettes in Australia, it will not make a huge difference to a straight out health outcome. In the 1960s, we were talking of tar content of up to 35 milligrams in a cigarette. The differentials were different: getting people to switch back from a 35 milligram cigarette to, say, a 14 milligram cigarette obviously had huge health impacts.

Given the amounts that we are talking about, it will not have a great health impact. However, it will send a message to people that cigarettes contain products that are not nice, are not good for them, and it is better if they have less of them. The opportunity this presents is in terms of the amendments that I and the Opposition have on file to make sure that the money collected from this goes into anti-smoking health promotion. That is the reason why the Democrats support this: because it presents us with a huge opportunity to really make a contribution to health in this State.

The Hon. T. CROTHERS: I am mindful when we talk about these measures which allegedly reduce the volume of anything noxious or physically debilitating in respect of dealing with the problems of young children that we have on record a position that we all ought to consider, and that is the

Volstead Act in the United States. When certain Governments of the United States sought to ban the consumption of alcohol, all they succeeded in doing was to put organised crime in the position of having so much money that it was impossible for the CIA, the FBI or any other organisation to root them out.

My question is a simple one from a simple man: what thought has the Government given to the fact that the shift relative to the utilisation of tobacco and tobacco products because of this increased tax may well encourage the younger generation to devote enough time and energy to growing their own alternative products so that, rather than there being a reduction of people smoking the tobacco plant, you may well have people shifting away from that and smoking alternative plants. I think there is a Bill on the Notice Paper in that regard. What consideration has the Government given to the hidden impact, to the Volstead Act algebraic equation? What has the Government done about that?

The CHAIRMAN: I am stretching it to allow that question to be answered by the Minister. However, because this is a new voice and a new point of view, I will allow the answer.

The Hon. R.I. LUCAS: When we look at this sort of legislation, we do a lot of algebraic equations, as the honourable member would expect, and we have done a lot of that this evening. The honourable member puts an interesting proposition. Obviously, this is one aspect of many issues that Governments, Ministers and advisers contemplate when they put together a package. My advice is that the impact is not likely to be so significant that large numbers of South Australians will be driven to smoking marijuana as a result of the impact of this increase in the price of cigarettes.

The CHAIRMAN: We are getting away from the amendment. I ask members to concentrate on clause 7. We have drifted into what could be summed up in the second reading or third reading stages. I ask members to concentrate on the matter at hand.

The Hon. R.R. ROBERTS: I am endeavouring to expedite this matter. There are three similar amendments, and it is better to deal with this matter once than three times. In the long run, we will get there more quickly. Small retailers and deli owners tell the Opposition that this new tax measure (the 100 per cent and the 102 per cent) will be an administrative nightmare for them. Is there any help available and was that taken into consideration in the compilation of the tax, using the Hon. Mr Crothers' algebraic equation? I ask that question on behalf of those people.

The Hon. Sandra Kanck, once again in an effort to justify her stance, which she is perfectly justified to do, said that this amendment would lower consumption, but that is not true. Smokers who are taxed to the hilt have heard that cry every time the tax has been shifted. One must remember that this legislation was introduced to overcome a problem in the Federal court. It was seen as an opportunity to garner more taxation from the long-suffering smokers in our society. I have said before and I reiterate tonight that I do not support smoking, but I support the right of any person in South Australia to smoke if they wish. I think it is about time they had some relief from this continual argument that the Hon. Sandra Kanck is perpetuating tonight that we are taxing them only for their own health and wellbeing, as Governments have been saying for the past 10 years.

That really ought to stop and the attack on my colleague the Hon. Paul Holloway is again a diversion from the fact. This is a tax Bill; this is the black heart of the Bill. The Opposition has made its position very clear and the Democrats and the Government have made their positions very clear. On behalf of the Opposition, I say that we know what the situation is. The arguments have been made in the second reading contributions and we have heard them here tonight. At least members of the Opposition recognise the reality of the situation, and we will make no further contributions from this side.

Members interjecting:

The CHAIRMAN: Order!

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 6, lines 24 and 25—Leave out 'where the average tar content as so required to be stated is five milligrams or more but less than 10 milligrams' and insert 'where the number of milligrams so required to be included in the statement as to average tar content is 8'.

This amendment is consequential.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 6, lines 28 and 29—Leave out 'where the average tar content as so required to be stated is 10 milligrams or more' and insert 'where the number of milligrams so required to be included in the statement as to average tar content is 12, 16 or a greater number'.

This amendment is consequential.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 6—
Line 34—After 'category B' insert 'or category D'.
Line 35—Leave out 'or category D'.

I move these amendments as a consequence of my being lobbied by the Tobacco Retailers Association. In particular, I refer to the roll-your-own tobacco products. They are in a very different category and the Government is planning—

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: I can tell the honourable member that very few smokers are left at Democrats meetings. As currently worded, the Bill would have those products taxed at the maximum level of 105 per cent. I raised this matter at the meeting that I had last week with the Hon. Mr Lucas and the Hon. Dr Armitage, and Dr Armitage came back to me the next day to say that they really were not prepared to move on it. However, he has not presented me with the evidence to show that one should assume that it is maximum tar content.

I am reading from what I consider is the bible of the anti-smoking movement in Australia. This is *Tobacco in Australia Facts and Issues 1995* by Winstanley, Woodward and Walker. They refer to roll-your-own tobacco, pipes and cigars. The first thing they state is that there is currently no published data on the tar, nicotine and carbon monoxide content of roll-your-own tobacco, and they go on to explain the difficulties in coming up with some sort of measure because different people, as they roll their own cigarettes, put in different amounts of tobacco and the nature of the paper itself makes a difference in terms of the uptake that the smoker is able to get. Then if I look at—

The Hon. Anne Levy interjecting:

The Hon. SANDRA KANCK: According to this, Canadian research has shown that these variables—that is, taking into account paper and filter, if any—have the greatest effect on the ultimate yield delivered.

The Hon. Anne Levy: You are saying the paper: perhaps there is more than one brand of paper.

The Hon. SANDRA KANCK: There are varieties of brands of paper.

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: I am sure. Then on another page they give information, looking at imported brands in 1991. They give an example that the brand containing the highest level was a brand of kretek imported from Indonesia containing 49 milligrams of tar, which is up around the sort of amount of tar that we had in our cigarettes in Australia back in the 1960s. On another page it states:

> The great majority of tobacco consumption in Australia occurs in the form of cigarettes. A small percentage of Australians (4 per cent of men and none of the surveyed women) smoked pipes or cigars alone in 1992. Pipe and cigar smokers have higher death rates for smoking related diseases than non-smokers—

which I think is fairly obvious—

> but for most disease entities their rates are not nearly as high as those of cigarette smokers. The probable reason for this is that pipe and cigar smokers tend not to inhale the smoke into their lungs. Instead, nicotine is absorbed through the mucous membranes lining the mouth. Therefore, pipe and cigar smokers experience a risk for laryngeal, oral and oesophageal cancer similar to that of cigarette smokers, but a lesser degree of risk for lung cancer.

It seems to me that if this volume makes those sorts of statements the jury is very much still out. One says that the Australian Government analytical laboratories cannot provide figures. One gives an example of a particularly bad Indonesian cigarette that is imported, and another says that the cigar and pipe smokers have fewer cancers than the cigarette smokers.

So, my view is that we should therefore be putting these products into the middle category and, if somewhere down the track evidence comes to light which shows that the majority of the imported brands are in the high tar content, we can amend this Act, if that information is provided. From a small business point of view, there are about 20 tobacconists in South Australia outside the Smokemart chain which would tend to have more of these products. In the case of Tunney tobacconists the bulk of its sales does come from these imported products. Mr Tunney told me that 60 per cent of the sales in their shop come from the imported products. So it will have a particularly hard impact on them as compared with other shops. I am certainly not sticking up for any tobacco retailers, but I do not see why one particular type of tobacco retailer has to be singled out at the expense of all the others.

The Hon. R.I. LUCAS: The Government understands the position of the Hon. Sandra Kanck but does not accept her proposed amendment and will be opposing it. I am not 100 per cent sure but my advice is that the book to which the honourable member is referring is partly written by Stephen Woodward. Is that the case?

The Hon. Sandra Kanck: Yes.

The Hon. R.I. LUCAS: On my knowledge of Stephen Woodward, given his attitude on these issues I would have been surprised had he been supporting a move to change the categories in relation to these particular cigarettes.

The Hon. Sandra Kanck: I have not spoken to him about it. I have simply referred to the work in the book.

The Hon. R.I. LUCAS: I must admit that the honourable member probably knows Stephen Woodward better than I do. I have read a lot of his material and I would be surprised if he would do other than support the Government's position in relation to this, namely, that on this issue it is best to adopt our position in relation to placement of the highest tar content until someone can prove otherwise. He may well support even more stringent provisions; but I would have thought he would be more comfortable with the Government's position. I do not intend to respond at length to the attitudes adopted by members. The positions are probably quite clear. It is a difficult issue. A lot of scientific work has been done and perhaps more will be done in the future.

The Government has adopted the view that the course it has proposed in the legislation is the preferred course. We would not want to open up the opportunity—I do not know how it might be possible—for manufacturers to produce products in the future in relation to which the tar content could not be measured and where they might be able to use this as a loophole. That might be a flight of fancy and I am not suggesting that that is the major reason for the Government's position. But the Government's position is one that it has thought about seriously and we believe, in the interests of the legislation, we ought to persist with it.

The Hon. R.R. ROBERTS: I indicate that we will oppose this amendment. We have had a long debate about the classes of tobacco. We put our point of view strongly that we were opposed to this extra tax grab. We were unfortunately convinced by the Democrats that the Government has a perfect right to do this and agreed that it is the Government's responsibility. We have taken the position, having lost the principle of this measure, that hypothecation is now our view and we want to take as much tax as we possibly can to hypothecate for education programs and investigations which are real health measures for the benefit of smokers. We will not be doing any stunts in playing around the edges. We have accepted the Democrats' argument that the Government has the right to put the tax on it. We said they didn't; the Democrats said that that was fine and, unfortunately, now they want to tinker around the edges. We cannot support it.

Amendment negatived; clause as amended passed.

Clause 8 passed.

Progress reported; Committee to sit again.

GOODS SECURITIES (MOTOR VEHICLES) AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 12.26 a.m. the Council adjourned until Thursday 20 March at 11 a.m.