LEGISLATIVE COUNCIL

Wednesday 3 December 1997

The PRESIDENT (Hon. J.C. Irwin) took the Chair at 2.15 p.m. and read prayers.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Justice (Hon. K. T. Griffin)—

Reports, 1996-97—
Public Trustee.
South Australian Office of Financial Supervision.
State Electoral Office.

EDUCATION AND SCHOOL CLOSURES

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a ministerial statement made by the Minister for Education, Children's Services and Training in the other place on the subject of education and school closures.

Leave granted.

STORMWATER

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement made by the Minister for Environment and Heritage in the other place on codes of practice for stormwater pollution prevention.

Leave granted.

QUESTION TIME

LIBERAL PARTY WOMEN'S POLICY

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the Liberal Party women's policy.

Leave granted.

The Hon. CAROLYN PICKLES: I refer the Minister to the Liberal Party's women's policy 'Focus on Women', which was distributed by the Minister on 9 October, two days before the State election. The Minister's covering letter attached to the policy is very clearly written on the ministerial letterhead. The first sentence reads as follows:

> I enclose for your interest a copy of the Liberal Government's women's policy.

Of course, in fact it was not the Liberal Government's policy but the Liberal Party's policy.

The Hon. K.T. Griffin: No, the Government's policy.

The Hon. CAROLYN PICKLES: Does Mr D. Piggot authorise your policy? Attached to the ministerial letter is a copy of the women's policy authorised by D. Piggot for the Liberal Party. The Auditor-General's Report, Part A.4 Audit Overview, states on page 48:

> However, when public funds are used to finance promotion and campaign activities relating to measures which implement Party political platforms, where the benefit of those activities accrue principally or substantially to a political Party, questions of propriety may be appropriately raised.

My questions to the Minister are:

1. Does the Minister consider it appropriate that a ministerial letterhead was used to distribute the Liberal Party's women's policy?

2. How was it distributed and was there any cost to the taxpayer? If so, how much?

The Hon. DIANA LAIDLAW: To answer that begs the question: did the honourable member pay personally for the copying of all Labor Party policies and the postage of them, and did you—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: Yes. It is an interesting question, and I think we should ask the Auditor-General to address this question in terms of women's policy. I certainly think that all the policies from the Labor Party should be checked in terms of the use of paper, stamps and the time of people who are being paid by the taxpayers. If that is the avenue down which the honourable member is suggesting we go, I am happy to pursue it.

OUTSOURCING

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Attorney-General a question about outsourcing contracts.

Leave granted.

The Hon. P. HOLLOWAY: In his Audit Overview, 'Memorandum to Parliament and Summary of Main Points', the Auditor-General comments on issues arising from the preparation of summaries of major outsourcing contracts. He states:

> There is a need to review the processes associated with the preparation of the summaries to ensure that adequate and timely advice is available to the Parliament and its committees. In my opinion, this can be achieved by having all future contracts have an agreed summary settled at the time of the execution in accordance with the framework or, alternatively, having the parties agree to release the whole contract with the commercially sensitive parts deleted. The current arrangements have not delivered the expected results and, in my opinion, a review of the process should be undertaken.

The Auditor-General then goes on to state:

> The intention of the legislative amendment is that the information in the summaries be available as soon as practicable after the request for the summary is made by the responsible Minister. The two summaries presently outstanding—that is, the EDS Australia Pty Limited contract and the United Water contract—are, as at 25 September 1997, awaiting clearance from the companies to be released. Both of these contract summaries, from an audit point of view, have been available for release to the Parliament for some considerable time.

I also point out that a select committee of this Chamber requested these contract summaries about 18 months ago, so my questions are:

1. Does the Attorney believe it is acceptable that contract summaries can be delayed for such a lengthy period by these two multinational companies, and what action will he take on the Auditor-General's advice?

2. Will he ensure that all future contracts have the parties agreeing to release the whole contract with the commercially sensitive parts deleted, as suggested by the Auditor-General?

3. Will he undertake to obtain a copy of the existing contracts, with commercially sensitive parts deleted, for those contracts where summaries have already been requested?

4. Will he undertake to review the contract summary procedures, as suggested by the Auditor-General?

The Hon. K.T. GRIFFIN: I did, to some extent, yesterday answer similar questions for the Hon. Mr Elliott, and I indicated that I would have hoped that the summaries for the water and EDS contracts would be available at a much earlier time than they appear now to become available. Part of the reason for that was that no summary was prepared by those who were familiar with the contract at the time the contract was entered into, and that necessitated the Crown Solicitor's having to work back through the contracts and prepare a summary that accurately reflected the content; and, in doing that, there had to be discussions with the other parties in relation to both the accuracy of the summary and identifying what was regarded as commercially sensitive material.

Our ultimate aim, by the procedure we put in place with the concurrence of the Opposition, was to endeavour to reach agreement with all interested parties about what was or was not commercially sensitive. Quite obviously, from the Government's perspective, something may not be regarded as commercially sensitive and the Government may not be aware of other factors that might in fact change the complexion of a particular part of the contract. So it is important for parties to be involved in ultimately agreeing, if at all possible, on what is or is not commercially confidential.

As I indicated yesterday in answer to the Hon. Mr Elliott, I would hope that the contract summaries will be available through the process laid down in the Public Finance and Audit Act through the Auditor-General before this two week session of Parliament concludes. In terms of the consultation with companies, I do not resile from the views that have been expressed over a period of time that consultation must take place about the summaries; but in relation to at least one of the contracts some discussions took place, even with the Auditor-General, about the extent of the summary that was required.

In terms of the second question and whether I would consider getting hold of the existing contracts and releasing those after deleting the commercially confidential material, I do not think that is necessary in relation to those two contracts on the basis that the contract summaries are, I would hope, to be tabled in the very near future, and, hopefully, that will overcome the difficulty that the honourable member has raised. I cannot quite recollect the third question but the fourth question was whether I would commit to reviewing the procedure. This sort of procedure is not fixed in stone. Quite obviously if there are difficulties with it I am certainly prepared to give consideration to it.

I noted that the Auditor-General said that he was prepared to assist in any review of the process. Considering the fact that he was involved in establishing the current process, there is good sense in involving the Auditor-General in looking at where the process can be improved upon. I have already read the Auditor-General's Report in respect of that matter and I am quite relaxed about having a look at the procedure. If some improvements can be made, well and good.

He suggested that summaries should be prepared for all contracts, but ultimately one must make a judgment about which contracts that should apply to. There are many contracts across government which might be regarded as outsourcing in the sense of a consultancy being brought in or for some work being done by the private sector for Government or by a Commonwealth Government agency for the State Government. One would have to look very carefully at which contracts summaries should be prepared for.

That was considered at the early stage and discarded as being basically an unworkable proposition. However, where major contracts can be identified as being potentially the source of debate, it may be possible to do that. I cannot make any commitment about that at the moment, but I am relaxed about discussing with the Auditor-General the existing processes and where they can be improved.

ABORIGINES, LIVING CONDITIONS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Aboriginal Affairs, a question about the social and domestic conditions of Aboriginals living in South Australia.

Leave granted.

The Hon. T.G. ROBERTS: In yesterday's *Advertiser*, an article by contributing journalist Mia Handshin appeared on page 18. She is an invited contributor who, on a regular basis, writes articles that are informative and refreshing, and some of the issues that she has adopted are very contemporary. I understand that she is attending an international convention in Europe.

In yesterday's article, she tackled the question of the problems associated with explaining internationally the conditions in which Aboriginal people in Australia live. She explained that, during a passionate debate at the recent International Youth Parliament in Manchester regarding the abolition of third world debt to mark the new millennium, delegates made contributions on what the term 'lucky country' actually means to Australians. There was a difference of views about what constitutes living in a lucky country and one of the delegates commented that Australian Aboriginals certainly are not very lucky because the indigenous population of Australia suffers some of the worst conditions of any social group in the world, even though they were born in a lucky country. She went on to say that Aboriginal and Torres Strait Islander people are the poorest, unhealthiest, least employed, worst housed and most imprisoned of all Australians.

It is only fair to say that until recently we had a bipartisan policy on the advancement of Aboriginal people in this country but, since the mining and pastoral interests have laid claim and done a lot of hard work to the drafting of the Bill before the Federal Parliament, that is no longer the case. It appears that, as States, we have to try much harder to get the outcomes that we require in a bipartisan way.

Does the Minister believe the statistics showing that Aboriginal and Torres Strait Islanders in Australia are, indeed, the poorest, unhealthiest, least employed, worst housed and most imprisoned of all Australians and, if so, what steps will the Government take to change these circumstances? In the answer I would like the issues of education, employment, housing and health to be addressed.

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

KERNOT, MS CHERYL

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Leader of the Government in the Council a question about the recent State election and the Australian Democrats.

Leave granted.

The Hon. L.H. DAVIS: On Thursday 9 October Cheryl Kernot, who then was a Senator for the Australian Democrats—

The Hon. T.G. Cameron: What month was that?

The Hon. L.H. DAVIS: 9 October 1997.

The Hon. T.G. Cameron: Thank you, we weren't sure.

The Hon. L.H. DAVIS: Well, I would have thought the election was more memorable for you than that, but if your memory is such short term it confirms my worst fears about members opposite. If they cannot remember back two months then we really have a tough four years ahead of us.

The Hon. T.G. Cameron interjecting:

The Hon. L.H. DAVIS: He can't even get his factions right.

The Hon. T.G. Cameron: I'm not in a faction.

The Hon. R.I. Lucas: That's why you are on the backbench.

The PRESIDENT: Order!

The Hon. L.H. DAVIS: I should have thought Mr Cameron would welcome this question.

The Hon. T.G. Roberts: It is not like you to ask dorothy dixers.

The Hon. L.H. DAVIS: I've turned over a new leaf. On Thursday 9 October, Senator Cheryl Kernot, Leader of the Australian Democrats, campaigned for the Australian Democrats in Adelaide. She was larger than life. She appeared at several functions. In fact, she appeared throughout the last few days—

The Hon. T.G. Cameron interjecting:

The Hon. L.H. DAVIS: He is better today, isn't he! A big recovery; a big comeback. Ms Kernot appeared in advertisements for the Australian Democrats on both television and radio in the last few days of the campaign. From her own lips she boldly proclaimed—and her lips were moving when she said this—

> Both Labor and the Liberals have sold out on South Australia. If you think they have gone too far, tell them in the only language they really understand. Vote Democrat in the Upper House.

That was Cheryl Kernot on 9 October. In fact, on 10 October—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, the Hon. Mr Cameron!

Members interjecting:

The PRESIDENT: Mr Davis, resume your seat. I ask for order. I do not suppose many members would remember a famous Australian Rules Football umpire called Ken Aplin—my friend the Hon. Mr Gilfillan may not remember him. There was another umpire called K.G. Cunningham whose philosophy was to blow a whistle very early at the start of any football game to get control of it.

The Hon. T.G. Cameron: Where is your whistle?

The PRESIDENT: I will use a whistle.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Mr Cameron, don't test me.

The Hon. T.G. Cameron: I wouldn't dare do that. I tried that with Peter Dunn. He was too good for me; he would have thrown me out.

The PRESIDENT: I just hope that you of all people might respect this Council, its traditions and the way it operates. I do not mind a bit of mirth and a few out of order interjections, but to go on making the same point over and again gets a bit wearing. If the Chair cannot hear the question then I assume the person to whom it is addressed cannot hear it either. If you want Question Time to have any meaning at all, you should listen to the question and let the Minister answer the question.

The Hon. L.H. DAVIS: On Friday 10 October, the day before the election, a photograph in the *Advertiser* showed Kernot campaigning for the Australian Democrats. She was holding a Liberal poster which said that a vote for the Democrats was a vote for Labor. Kernot claimed the advertisement was a disgrace and inaccurate. On Wednesday 15 October, just five days after her last appearance in the *Advertiser* for the campaign for the Australian Democrats, using her high profile and popularity as the Leader of the Australian Democrats, she announced that she was defecting to the Labor Party. But the interesting thing which has transpired and which is beyond dispute is that, in fact, she had agreed to join the Labor Party on 1 October, 10 days before the South Australian election.

For over a week following that she was still campaigning for the Australian Democrats, and she had committed herself to join the Labor Party and to seek Labor preselection for a Federal Lower House seat. Obviously that decision was known to a handful of Federal Labor figures. Certainly the Australian Democrats had no idea. The Hon. Michael Elliott had no idea. People might say that about him, anyway, but on this particular matter he did not have an idea. In fact, even the Deputy Leader of the Australian Democrats at the Federal level, Senator Meg Lees, did not know about the resignation until minutes before it was announced. She claims that Senator Kernot only told her that she was resigning from the Party and that she did not give her the other little bit of information which just happened to be, 'On 1 October I committed myself to join the Labor Party.'

Senator Kernot's parliamentary office in Brisbane was informed of this small piece of news by fax from Gareth Gareth (otherwise known as Biggles or Senator Gareth Evans). That shows the style of Senator Cheryl Kernot. I must say that I have some sympathy with the Australian Democrats in South Australia and the State Democrat Leader, Mike Elliott. When he was told of this defection I think he responded in a fairly reasonable fashion when he said, 'She's joined the bastards.' But the ironic thing I am coming to—my penultimate point—was that when Senator Kernot announced her decision to join the Labor Party she said (and Mr Cameron can listen to this):

> I want to restore the things that I think Australia has lost—simple things like confidence, trust and public service.

There was an immediate run for Kleenex tissues around Australia! Just where was the trust when Kernot was campaigning for the Australian Democrats in person in Adelaide on 9 October and in advertisements throughout the campaign on radio and television for the Australian Democrats, when days earlier she had agreed to join the Labor Party? My question to the Leader of the Government in the Council is: does he have any views on this matter?

The Hon. R.I. LUCAS: After 15 years or so in the Parliament and 25 years in politics one wonders whether one will ever be as surprised by political events and happenings as one might have been by any previous announcement, surprise or happening. When I first heard the news of Senator Kernot's defection to the Labor Party I must admit that I did not believe that any Democrat could be such a hypocrite in relation to his or her approach to politics and electoral campaigning. One would have to say that this was the mother of all deceits imposed upon the voting population.

The Hon. L.H. Davis: It was a fraud on the voters.

The Hon. R.I. LUCAS: It was a fraud on the voters, and it was the mother of all deceits, imposed by a Party spokesperson who has long professed to want to keep the bastards honest in terms of political integrity.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: I have to say that it is the best. I have not seen one that is bolder and brassier than this one. It made a decision 10 days prior to an election to agree to participate and pay the electoral advertising—in effect the only focus of the Democrat campaign in South Australia. It was a State campaign. It was first time ever that I can recall where the State Party decided that it would not campaign using substantially its own personnel; rather, it would import its Federal star spokesperson and concentrate on that person as the key focus of its television and radio advertising and its last hit on the Thursday prior to the election, and this is quite unprecedented in terms of an electoral approach. To have the temerity to impose that fraud upon the people of South Australia in the way in which Senator Kernot did is reprehensible.

Whilst my colleague the Hon. Legh Davis is a much kinder person than I in relation to feeling sympathy for the Hon. Michael Elliott and the Hon. Sandra Kanck—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan, I am sure, was not a focus at that time. Whilst my colleague the Hon. Legh Davis is much kinder than I, subsequent to this we have had no apology from the Leader or the Deputy Leader of the Australian Democrats in South Australia for the fraud—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Well, the fraud that their Federal spokesperson imposed on the people of South Australia.

The Hon. T.G. Cameron interjecting:

The Hon. L.H. Davis: Michael Elliott wouldn't have been sleeping at night!

The PRESIDENT: Order! That is enough, thank you, the Hon. Mr Davis.

The Hon. R.I. LUCAS: The Hon. Mr Cameron talks about the significant increase in the Democrat vote. Why did it receive a significant increase in the vote? Because it cheated and defrauded the South Australian electorate.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Through cheating and a fraud. It was the mother of all deceits.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: You are still on the Opposition bench.

The PRESIDENT: Order! That is enough.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: You are still on the Opposition side, Mr Cameron. You are still on that side of the Chamber. The Leader of the Australian Democrats said:

> The Democrats have written to the Electoral Commissioner, Mr Steven Tully, calling for action over advertisements claiming that a vote for a Democrats candidate 'gives you' Mike Rann.
>
> 'This is deliberately misleading voters,' the Democrats' State Leader, Mr Elliott, said yesterday.
>
> 'There is no way that voting for a Democrat will mean that preferences go to Labor candidates and therefore gets Rann elected as Premier.'

So, we have the Hon. Mr Elliott's claims of misleading advertising in relation to what is undoubtedly almost 60 per cent of Democrat preferences which went to Labor Party candidates in the last election—that is beyond dispute—and which has been the case in the past, yet he is not prepared in any way to acknowledge the deceit and the fraud imposed on the people of South Australia for the misleading advertising authorised by his Party and himself during the election campaign which not only significantly increased its vote but also ensured a significant increase in the number of seats won by the Labor Party in South Australia.

I think my colleague the Hon. Mr Davis has calculated that, if the Australian Democrat vote preferences had been divided equally between Labor and Liberal in their preference allocations, a number of extra seats would have been won by the Liberal Party and fewer seats would have been won by the Labor Party.

Members interjecting:

The Hon. R.I. LUCAS: It was 1993. The question clearly remains for the Leader of the Australian Democrats in South Australia (Hon. Michael Elliott). If he wishes to pursue the question of misleading advertising, he must respond to the allegations made against him and his Party for the grossest form of misleading advertising that we have seen in the history of advertising in South Australia.

The Hon. A.J. REDFORD: I have a supplementary question. Does the Leader of the Government agree with the interjection—

Members interjecting:

The PRESIDENT: Can I hear the question, please?

The Hon. A.J. REDFORD: Does the Leader of the Government agree with the interjection of the Hon. Terry Cameron that, if a vote is gained through cheating and fraud, then so be it?

The Hon. T. CROTHERS: Mr President, I rise on a point of order. According to Standing Orders, the honourable member cannot ask a supplementary question based on an interjection across the Chamber. The honourable member can only ask a supplementary question on matters of relevance raised in the original question. I ask you, Mr President, to uphold my point of order.

The PRESIDENT: I rule that there is substance in the point of order: that the question should arise out of the substance of the answer by the Minister. I call on the Hon. Mike Elliott. Before you start, Mr Elliott, I point out that, if you have not already worked it out, you have had four questions in 35 minutes. A lot of interjecting drags out the answers.

WORKCOVER

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Justice a question about WorkCover.

Leave granted.

The Hon. M.J. ELLIOTT: WorkCover Corporation's Injury Management Bulletin of October this year details the corporation's action to stop what it describes as excessive treatment of back injuries. It says:

> In the coming months WorkCover will be taking a number of steps to curb excessive treatments for back disabilities.

One of these steps included the selection of a number of cases where services had been provided well in excess of the back guidelines and rejection of further payments for these services on the basis that the services were inappropriate and unneces-

sary under section 32(5)(b) of the Act. I believe that the guidelines may not have been promulgated officially at this stage.

Section 32(5)(b) of the Act allows WorkCover to reject payments but gives workers the right to appeal these decisions. I have been told that the practice now being undertaken is that treatment providers are being told that workers are not to receive any more treatment after filling the quota deemed appropriate in the back injury guidelines. In other words, because the providers are being told that it will not be paid for, the service is not being refused so one has nothing against which one can appeal. Effectively, it denies a person's ability to receive treatment and then appeal any non-payment decision by WorkCover, and that is clearly contrary to the intent of the Act. I ask the Minister the following questions:

1. Can the Minister investigate how widespread this practice is?

2. Who instigated this practice and on what legal basis?

3. What action is being taken in relation to this?

4. What is being done to ensure that workers are not being denied treatment necessary for their recovery and return to work?

5. Most importantly, if the guidelines are not yet official, is it right and proper that service providers should be discouraged from providing the service and therefore denying the right of appeal which would have been provided under the circumstances described by the Act?

The Hon. K.T. GRIFFIN: I will refer the questions to the appropriate Minister and bring back a reply.

ALICE SPRINGS TO DARWIN RAILWAY

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Treasurer, representing the Premier, a question about the Alice Springs to Darwin rail line.

Leave granted.

The Hon. T.G. CAMERON: Today's *Advertiser* carries a report stating that a consortium which had submitted an expression of interest to construct the Alice Springs to Darwin railway has accused the State Government of an anti-Australian bias. The Premier is accused of giving a one day extension to the deadline for expressions of interest following a briefing to one of the world's largest shipping companies, the China Ocean Shipping Company, about the project last Saturday.

My question is: considering the Government's professed concern over the high level of unemployment in this State and its support for local businesses, why did the Premier grant an extension of the deadline for expressions of interest in the construction of the Alice Springs to Darwin rail line to a Chinese company when he denied a similar extension to a Western Australian firm?

The Hon. R.I. LUCAS: I understand that not 10 minutes ago the Premier answered a similar question in another place, but I will seek a response from him. I must admit that my recollection—and I will obviously need to check it—was that the decision in relation to the timing of the receipt of bids was not a decision for the Premier but for the Australasia Railway Corporation. However, I will check the matter with the Premier—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: I am not aware of the United Water details, but I will certainly ask the question of the Premier and check it with the response that I understand he has given in another place to the same question.

TOURISM, RECREATION AND SPORT

The Hon. R.I. LUCAS (Treasurer): Yesterday I tabled a ministerial statement on a report commissioned by the Minister for Local Government, Recreation and Sport. I seek leave to table the attachments and documents that I did not have on that occasion.

Leave granted.

CHILD POVERTY

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister representing the Minister for Human Services a question about child poverty.

Leave granted.

The Hon. CARMEL ZOLLO: Yesterday's *Advertiser* carried a story about the national release in Sydney of a report prepared by Mission Australia titled 'Children in poverty: Lost expectations'. The report argues that Social Security support is no longer sufficient for poor families and that four in every 10 live in poverty in South Australia. It indicates that 57 per cent of low income families say that their standard of living is worse than it was two years ago. These figures would not be a surprise, given the cutbacks in funding after four years of a State Liberal Government and two years of a Federal Liberal Government.

It notes also that more than half of poor families could not afford to pay their electricity and gas bills, a fact well known to me from my previous employment in a northern suburbs electoral office, in areas that have been hardest hit by high levels of unemployment rates.

I have asked Mr Peter Sandeman, the General Manager of Mission South Australia, for an urgent copy of the report. I am sure that the Minister will share these concerns. My question is: has the Minister received a copy of the report and what action does he intend to take in cooperation with the Federal Government to urgently address this most distressing issue affecting so many of our children and families?

The Hon. DIANA LAIDLAW: I did not take a point of order in terms of comment in the question as it is the honourable member's maiden question. I respect that fact, but it is a practice not to comment. Nevertheless, it is a most serious question and I will seek a reply. I should also note for the record that three of the five questions asked by members opposite were taken from references to the *Advertiser* of the past two days. It is good to see that readership is up, at least among members of the Opposition, in terms of the new format of the paper. I am sure that the *Advertiser* will be delighted.

COURTS ADMINISTRATION AUTHORITY

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General a question about the Courts Administration Authority annual report.

Leave granted.

The Hon. R.D. LAWSON: The Courts Administration Authority annual report for the year 1997 was tabled in this Council yesterday. In the report of the Chief Justice under the heading 'Relationship with the Government', the Chief Justice, first, acknowledges the harmonious relationship that exists between the Attorney and the Council, and the

cooperation of the Attorney. He does, however, go on to say that the authority had made a number of proposals for additional funding during the year under review which were not approved by the Attorney. The Chief Justice states:

> While not expecting all proposals to receive support, it is a matter for regret that most of the authority's proposals were not funded. It is, of course, for the executive Government to decide these matters, but a number of those proposals had strong claims for support.

Under the section headed 'The State Courts Administrator's report', the report also states that the authority's computer-based court management system has been re-engineered and that the authority has entered into a partnership with DMR Consulting to market the re-engineered systems within Australia and overseas. One Australian jurisdiction has already agreed to purchase the new case management system and, from the level of interest expressed locally and overseas, there is a strong likelihood of further sales.

The third point raised in the report about which I wish to ask a question deals with the review of fine enforcement procedures. The report notes that a draft proposal has been prepared that draws on the best elements of recent Western Australian and New Zealand fine enforcement legislation which have achieved collection rates substantially over those prevailing in South Australia. It notes that a committee of justice agencies will be established to examine that proposal further. My questions to the Attorney are:

1. Is he able to indicate to the Council the nature of the funding proposals which were made by the Courts Administration Authority but which did not find favour with Government, and what was the reason for the Government's decision in relation to them?

2. In relation to the computer re-engineering, will the Attorney indicate the price obtained by the authority for the sale of its new case management system, and will he indicate whether the funds derived from that source remain within the Courts Administration Authority or come back into general revenue?

3. Is the Attorney able to report to the Council on the review of fine enforcement procedures?

The Hon. K.T. GRIFFIN: I do not have at my fingertips the sorts of requests for funding which the Courts Administration Authority made and which were not agreed by Government. One of them, from memory, related to about $1.75 million for some work on the old Supreme Court building, on the basis that it is a heritage building, that it is in need of substantial renovation and maintenance and that it is now one of those court premises which generally would be regarded as below the standards we now expect for those who work in public offices.

However, the Government made a decision, on the basis of the funds that were already being made available, that some of the requests could not be met, particularly in the light of the fact that we had committed something like $30 million to the new Adelaide Magistrates Court, work on which has only recently been completed after a delay in commencement of about four years since 1991, when the Magistrates Court was moved across to the old tram barn as a temporary court location.

We took the decision when we came to government that that was a disgrace and that the Adelaide Magistrates Court had to be fixed; and it was. We have the Youth Court in the capital works program. I think the work is likely to start there in about March 1998, and that involves about $3.5 million to $4 million. There is the information technology re-engineering project, for which I think the provision is something like $8 million; and that was additional funding.

Taking those provisions into account, the Government decided that the other requests by the Courts Administration Authority were not, across the whole of Government, of sufficient priority to warrant funding.

I have no doubt that the Courts Administration Authority will seek to develop other propositions, if not repeating those, for the next round of budget discussions for 1998-99. The courts accept the process under the Act. Ultimately the budget is approved by the Attorney-General and then finally included in the budget for appropriation of funds. It runs a couple of gauntlets: first, the Attorney-General; secondly, the Cabinet; and, finally, the Parliament.

The second issue the Hon. Robert Lawson raised was that of the courts computerisation project and the reference to the sales of its technology to other courts. A trial has been committed to in relation to one Australian court, and there has been a move to endeavour to sell the systems to other jurisdictions in Australia and overseas, including Malaysia. There have not yet, as far as I am aware, been any receipts in relation to those arrangements, but I will obtain some further information for the honourable member and bring back a reply.

In relation to the question of fine enforcement, the Government has decided that it ought to build on the experience of Western Australia and New South Wales in particular, as well as Queensland, whereby a new system has been implemented to, first, ensure that fine defaulters are not imprisoned (there are other alternatives to collection) but also that outstanding fines are in fact paid. I think the amount which we predict in the first year of recovery with the new system that we are working on implementing would be an additional $30 million, or thereabouts, with an annual figure of approximately $25 million to $27 million, and that is on the basis of following up on unpaid fines. South Australia's rate of recovery is very poor. The rate of recovery in those jurisdictions where new systems have been implemented is well over 90 per cent, and the numbers of people being imprisoned for fine default are minimal.

In the very near future we hope to develop and then implement a system that will provide significant benefit to the revenues of the State but, more particularly, will ensure that the decisions that courts make to impose fines are not ignored, and that thereby the penalties are much better regarded than they are at present. There are law-abiding citizens who perhaps do break the law on occasions, for example, through breaches of the Road Traffic Act or the Motor Vehicles Act, and who pay their fines on time or within the time permitted by the court, when many others seem to thumb their noses at the decisions, and it has—

The Hon. T.G. Cameron: Or who can't afford to pay.

The Hon. K.T. GRIFFIN: Yes, but many thumb their noses at the system.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: No, that is a fact, and if one looks at what has happened in Queensland and Western Australia and what is anticipated to happen in New South Wales one will see that it is intended that at the point when a person is fined immediate contact will be made by someone in the court to assist them in determining whether or not they can afford to pay and, if they cannot afford—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: Already our Government has brought into operation community service orders for fine

default and we have brought into play hardship provisions—all measures which we have brought into operation and not the Labor Government.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: We want people to pay their dues for breaking the law but we also want to ensure that, if there is genuine hardship, we help people to manage that as they meet their responsibilities to society. I have answered all the questions but if there is any further information to be provided I will provide that for the honourable member.

TRANSPORT, CONCESSION TICKETS

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport and Urban Planning a question about public transport concession tickets.

Leave granted.

The Hon. SANDRA KANCK: I have been informed of a case where a tertiary student was fined for not having his student card in his possession while using a student concession ticket. The student's wallet had been stolen on a weekend. The theft was reported to the police and the wallet ultimately returned but, in the meantime, the student continued to travel using his student concession ticket, but when an inspector came along he was fined $107 because he could not produce his student concession card.

The Hon. T.G. Cameron: Squeeze a few more dollars out of the poor.

The Hon. SANDRA KANCK: Yes. The student appealed on the grounds that his wallet had been stolen. He was willing to produce the proof of this and, ultimately, the concession card once the wallet was returned, but he lost his appeal for no reason other than that this was the second time he had been caught travelling without his concession card in his possession. In following up this matter I have been informed that the Passenger Transport Board has no procedure in place for concession passengers to produce their concession card at a later date. By comparison, if a car driver is pulled up by the police and cannot produce their driver's licence, I understand that they have 48 hours to report to any police station with their licence, but that is not the case with student concession cards on our public transport.

My research officer, when following up this matter with the prosecutions department of TransAdelaide, was told that TransAdelaide is not trying to stop people from using public transport if they lose their card, but people must understand that they must pay full fare. My questions to the Minister are:

1. Will the Minister advise why the Passenger Transport Board has not considered having a similar procedure to that applying to a driver's licence, so that if people are not in possession of their concession card they are not unfairly burdened by a hefty fine?

2. Will the Minister provide details on the following: (a) how many people using concession tickets are fined for not being able to produce a concession card; (b) how many of these fines are appealed by people who are prepared to prove their eligibility for a concession ticket by producing a concession card later; (c) how many unpaid fines are dealt with by the court system; and (d) what costs are involved when the matter is taken up by the courts?

3. Will the Minister inform me what percentage of their weekly income does a $107 fine represent in relation to (a) a student living on HECS; (b) an old-age pensioner; and (c) a disability pensioner?

The Hon. DIANA LAIDLAW: I would have thought that if not the honourable member then at least her assistant could work out the answers to the last two questions but, if that is not possible, I will certainly seek to accommodate the honourable member in that regard.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: A number of matters require detailed answers and I will seek advice on them. Travelling with an ID card is a requirement of the public transport system and has been for many years in terms of concession travel. That is not something that this Government introduced over the past four years: it has been a requirement of concession travel for a long time. Concession travel, of course, is half the cost on a very heavily subsidised system, and that is important. No person is fined the first time—no person at all. People are simply given a warning, and the honourable member made reference to that. Any person who is fined has received a warning first. So, when I bring back the advice of the number of people who have been fined, I think it is important to look at it in the context that those people have already been alerted that this will happen in the event that they are again caught travelling without a card.

I know that our system is more relaxed than is the system in other States, but I have wanted to keep it that way in terms of a warning on the first occasion. Many people have suggested that we should adopt interstate practice and fine offenders as motorists are fined for most offences, but we have not sought to do that. The warning system applies. The fine system applies only after advice has been given to those who have failed to carry their cards. I will look into this matter further.

DISTINGUISHED VISITORS

The PRESIDENT: Before calling on Matters of Interest, I should like to acknowledge the presence in the gallery of two former Presidents of this place.

Members interjecting:

The PRESIDENT: If we all released our kelpie dogs at once, we might get some control!

MATTERS OF INTEREST

TRANSLATORS AND INTERPRETERS

The Hon. J.F. STEFANI: In developing a multicultural nation, Australia has recognised the importance of our cultural diversity which has enriched our society and which has provided great opportunities for the ongoing economic development of our nation and State. The recognition of such diversity has also been reflected by the establishment of the National Accreditation Authority for Translators and Interpreters (NAATI), which recently celebrated its twentieth anniversary with a reception at Parliament House which I was pleased to co-host.

NAATI has largely been responsible for the successful development of a body of skilled interpreters and translators in Australia. In 20 years of operation, NAATI has established a set of national standards for the interpreting and translating

profession. This means that practitioners accredited in South Australia have credentials which are recognised and equally valued anywhere in Australia. NAATI has also set and administered examinations for accreditation, approved training courses at tertiary institutions and assessed interpreting and translation qualifications from overseas institutions. It has publicised information on its activities in a variety of publications, including the widely circulated directory of accredited and recognised practitioners of interpreting and translation.

While these activities will continue to be the main priorities of NAATI for some time, it will also be working to meet the specific needs for qualified interpreters and translators within South Australia and to encourage the development of appropriate training programs for interpreters and translators in this State. Nationally, NAATI will be working very hard to assist the Sydney Organising Committee for the Olympic Games to meet its needs for interpreting and translation services leading up to the games in the year 2000.

As an incorporated organisation, NAATI is jointly owned by the State and Federal Governments and provides an accreditation system for more than 13 000 trained interpreters and translators, who are actively involved in providing valuable translating and interpreting services to our community. These trained professionals also assist our country to achieve greater overseas trade and economic development, as well as assisting our tourist industry. To achieve its charter, NAATI receives funding from both Federal and State Governments to ensure high quality of interpreting and translating services in Australia.

The South Australian Liberal Government strongly supports the principles of access and equity in such areas as health, legal and social welfare services. As a State, we are proud to have led the way in many areas of ethnic affairs, including the initiative to establish the provision of interpreting and translating services in our hospitals and in our courts with the assistance of NAATI, which has provided interpreters and translators. I take this opportunity to congratulate NAATI on the valuable work which it has undertaken during its first 20 years of operation, and I wish it continuing success for the future.

LEGISLATIVE COUNCIL, ROLE

The Hon. T. CROTHERS: It is with pleasure that I make this contribution. In particular, I note that the three Ministers who represented the Government in this Chamber in the last Parliament have been returned, and that is pretty fair. Although I will not quantify it, I will say that they have been three of the more competent Ministers when, at times, competence has been at a premium.

The Hon. G. Weatherill: Don't build them up too much, Trevor!

The Hon. T. CROTHERS: Well, I tell the truth as I see it. I further welcome the Hon. Robert Lawson as the fourth member from this Chamber to be nominated to the ministry, if the appointment is ratified, and I understand that that debate may be ongoing at this time in other place. It will a first for me to have my own personal Minister, because I understand that amongst his portfolios he will be Minister for the Ageing.

In respect to your good self, Mr President, I cannot tell you how pleased I am to see you occupy the supreme pillar of importance in this House. Your predecessor the Hon. Mr Dunn and other Presidents who preceded him were always fair and equitable, and they ensured the good running of this House, as opposed to the shenanigans that go on from time to time in another place to the detriment of the citizens of South Australia with respect to the way in which one processes parliamentary business and, therefore, the business of the people.

Interjections are good and, if the humour is good and points can be made from both sides, it makes the debate more interesting and spices it up. However, interjections of a raucous, rowdy, vainglorious nature, which from time to time erupt from both sides of the House, are to be despised as not being in the best interests of the people of this State. Knowing you, Mr President, I am sure that you will be firm, fair and equitable and that you will ensure that the high standard and quality of debate will ensue in this place as has been the case in my 11 years of membership.

The Hon. T.G. Roberts interjecting:

The Hon. T. CROTHERS: Some members do not have the quality that the honourable member would understand. However, having said that, I believe that a few brickbats should be thrown at the Government. I could not believe my ears when I heard the Premier say that, if this 'House of Review'—in the immortalised words of Ren DeGaris—were to amend or not carry any Bill, he would have no hesitation in taking us to an early election in under the term set out in the Constitution. Mike Rann commented that it was like a turkey calling for an early Christmas.

I would not say that, but I think that it is evidence of someone with very little political savvy or political streetsmarts, who, at extra cost, would want to involve the people in an expense that is both unnecessary and unwarranted. In all the years that my Party was in Government, not once to my memory did we have a sufficiency of numbers in this place to give us a majority. I may be wrong about one occasion, but I do not think that I am.

Mr President, again I say to you that I am so chuffed that the right person was elected to the job. I am sure that you will discharge your duties in a fair and equitable manner and I hope that you live up to the trust that all of us who know you have placed in you.

PLANE, MR TERRY

The Hon. L.H. DAVIS: Mr Terry Plane, a former key staff member with Premier John Bannon, has a weekly political column in the *City Messenger*. I have examined the last 27 Plane columns—no pun intended, but it could well be—dating back to 4 June. It confirms a long-held suspicion of mine that Mr Plane is guilty of gross bias. Of those 27 columns, 16 could be rated as anti-Olsen or anti-Liberal Government—but overwhelmingly anti-Olsen—10 could be rated as neutral, and only one, dated 17 September, could be construed as anti-Labor. That particular column on 17 September was headed, 'Labor disunity, lack of talent to be costly'. But after that he attacked the Hon. Mike Rann with the ferocity of someone using a dead lettuce leaf.

The fact is, if these 27 columns are examined, he has shown gross and persistent bias against John Olsen, the Premier of South Australia. He has treated Mike Rann, Leader of the Opposition, with absolute kid gloves. In those columns which I have deemed to be neutral, on all occasions it has had a barb against John Olsen and has been very positive or supportive of Mike Rann as Leader of the Opposition.

I find it extraordinary that this has been allowed to persist. I find it extraordinary that the *City Messenger* is so relaxed about it that it allows this to occur. It is not hard to recognise, from someone who does not know the background of Mr Plane, that he is a Labor sympathiser. I am sure that, if this were shown to the Australian Press Council, it would perhaps agree that there is gross bias associated with it. Let me underline my point by saying that in the rumpus where the Hon. Ron Roberts was so shamefully treated by the Labor Party, where he made his famous comment, 'I spit in the face of your offer,' Mr Plane was blinking when Mr Roberts wrote that letter. We had no mention whatsoever of that. There was no attack on the Labor Party for that extraordinary explosion which occurred within. There was no hint of disunity from the Labor side when Mr Ralph Clarke was deposed by Annette Hurley in a bitter battle, when he was rolled by the machine. Mr Plane again had his back turned to that little altercation. It is quite extraordinary.

There was one neutral column about the Democrats and there were a couple of other columns which did not relate particularly to South Australia. I will read the headlines, from 3 December and going backwards: 'Olsen swims against wave of wavering Libs'; 'Business dumping Olsen'; 'Olsen more likely to take the high jump'; 'Rumblings over Premier and his private staff'; 'Democrats still parking lot of the disaffected'; 'Lack of Government transparency sign of contempt for people'; 'Olsen left as lame duck Premier'; 'Bank still haunts Labor; division dogging Liberals—and the voters don't like either' (neutral, but Rann was treated softly and Olsen harshly); 'Premier Olsen still ducking the questions'; 'Plenty of agendas, possibilities to fascinate' (a neutral one); 'Olsen isolating himself with his loner style'; 'Festival poster could become factor in State election' (a neutral one); 'Baker's exit a spanner in election works'; 'Baker's penny bunger outbangs Olsen's damp squib'; 'Some accountability, Mr Olsen, please!'; 'Rann starting to hurt Government in the polls'; 'G. Ingerson. . . "wrong" information. . . '; 'SA's political void may give Government win by default'; 'Olsen deserves no sympathy over Baker'; 'Tap into their riches of experience with a forum of seven ex-Premiers' (a neutral one); 'Shaking off our national apathy' (another rare neutral one); 'Olsen wounded in the shootout with Rann' (again, Rann is the man—certainly from Mr Plane's point of view); 'Rann needs to work on his punches' (that was deemed to be a critical one, but if we read everything else we find that it was only the subeditor who got the story wrong with that headline, because after that it was all plain sailing); and 'Good gracious, what a week! But Olsen was not gracious'.

We are not getting the media that we deserve, and I think it is about time, when we look for excellence in this State, that we do away with mediocre and biased journalism such as this.

AUDITOR-GENERAL'S REPORT

The Hon. P. HOLLOWAY: I wish to make a few comments this afternoon in relation to the Auditor-General's Report. Unfortunately, because of the new Parliamentary program, we will not have the opportunity for a detailed discussion on the report just yet. However, let me say at this point that I trust that the Government will provide an opportunity for a more detailed response to this report at some stage in the future. We accept that the Government has some urgent legislation that it needs to get through. We will facilitate that as much as is reasonable, but we hope that in the New Year we will get the opportunity to discuss this report in more detail.

One of the interesting things about the Auditor-General's Report is that it has now grown to eight volumes. Over the four years that this Government has been in office the report seems to have grown each year. It has now reached eight volumes. There are seven volumes plus a supplementary. There seems to be an exponential growth in the amount of information that the Auditor-General needs to provide this Parliament as a result of what is going on. If we look at those audit opinions that have received some qualification, we find that in the supplementary report he brought down yesterday there are five, and in his main reports there are eight qualified audit opinions.

I accept that that is not necessarily a perfect measure of problems in terms of accounting within the Government, but the fact that there are 13 qualified opinions compared to no more than half a dozen in years gone by does indicate that, with the large cuts that this Government has made to the Public Service, the Public Service is struggling to get adequate staff who can deal with the accounting. In particular, as this Government is now moving to accrual accounting, that will only exacerbate this problem.

I would hope that as we move to accrual accounting, which will provide benefits to the State and to members of Parliament in terms of understanding the accounts of this State, it is important that, first, the Government should ensure that it has sufficient staff within the Public Service to cope with the new system. Secondly, I believe that members of Parliament should be provided with information to enable us to deal with the changed accounting procedures so that we can adequately compare the performance of Government over various years as we move to the new system.

The Auditor-General made many comments in his report that will be of great assistance to public accountability in this State. I raised a question today in relation to the outsourcing contract summaries. I believe the Auditor-General has really hit the nail on the head. The current system is absolutely ludicrous. We have waited 18 months for contract summaries for several of the outsourcing contracts, including the EDS contract and the United Water contract. As far as I am concerned, the one summary that we have received to date has been a complete waste of time. Clearly, the whole procedure needs to be overhauled. I am very pleased that the Auditor-General has adequately identified the shortcomings in this process.

The Auditor-General also made some comments in relation to the public works program. Earlier this year in a grievance debate I raised some concerns about the Mount Gambier Hospital and the way that the Public Works Committee's report on that project had been completely ignored by the Government. In that case the Public Works Committee had recommended against private funding, because it was less cost-effective than public funding of the hospital. The Government simply ignored that advice and privately funded that hospital. It is interesting now that the Auditor-General has made some quite scathing criticisms of the way that the Public Works Committee and its findings have been ignored in a number of later projects, including Wilpena Pound, Hindmarsh Stadium, the netball stadium and so on. I believe that there is a great need for us to reconsider the way in which some of our major public projects are financed.

I believe that the Auditor-General plays a great service in pointing out some of the risks associated with Government advertising, and one can only hope that the Government will take notice of his recommendations and develop a proper code of practice so that we do not see further examples of abuse by this Government in using taxpayer's money to make political advertising.

INTERNATIONAL DAY OF DISABLED PERSONS

The Hon. R.D. LAWSON: Today is the International Day of Disabled Persons, so proclaimed by the United Nations. I am very often not a great fan of the United Nations day of this or year of that, but this International Day of Disabled Persons does provide us with an opportunity to focus on a section of our community which is often neglected. Today the Secretary-General of the United Nations said:

> More than 500 million people—men, women and children—suffer some mental, physical or sensory impairment making people with disabilities one of the world's largest minorities. In developed and developing countries alike they face discrimination and are found disproportionately among the poorer strata of society.

The Secretary-General referred to the United Nations' Charter and Universal Declaration of Human Rights, both of which stress the dignity and worth of the human person and the equal rights of men and women. The Secretary-General concluded:

> People with disabilities possess an enormous reservoir of talent and energy that must be tapped. On the International Day of Disabled Persons let us remember that the world is not monolithic and let us renew our pledge to do our utmost to build a world in which every citizen can participate fully and actively.

In South Australia some 20.6 per cent of the population have some disability, and that is slightly higher than the national average of 18 per cent. This means that between 15 000 and 30 000 people in South Australia are estimated to require some level of daily personal assistance as a result of a disability which is classified from moderate to severe.

The disability sector in this State is estimated to be the third largest employer in the public funded sector, with over 5 000 full-time positions. In 1994-95 approximately 10 000 people with a disability were provided with specialised services through approximately 100 Government and non-government agencies in this State. Those services range from information and display, for example the Independent Living Centre; therapy provided, for example, by the Crippled Children's Association in-home; supported accommodation facilities such as the Strathmont Centre and Minda; and many others both in the Government and non-government sector. Many of them are funded substantially through Government agencies. In this State the Disability Services Office has a budget for the current year of some $144 million of which about $39 million will come through the Commonwealth-State Disabilities Agreement, which is currently under review. In fact, that agreement has expired and is currently continuing on a month-to-month basis.

Last week in Canberra at a meeting of State, Territory and Commonwealth Ministers for Disability Services the Commonwealth agreed to reconsider an offer which had previously been made and which included only a .9 per cent increase over each of the next five years to meet current programs and the unmet need which has been identified in a number of reports. This offer was, as the South Australian Minister said, entirely inadequate.

There is no doubt that persons with disabilities are now living longer by reason of the care and attention which is given to them and by reason of advances in medical technology. The need for additional resources is an ongoing and increasing one. It is appropriate on this day that we recognise the achievements and the contribution of people in this State with disabilities, and that we also recognise and acknowledge the dedication of their carers, both paid and unpaid, and the many thousands of people who are working in this sector to make it one which, in my view, is full of promise.

MEDIA BIAS

The Hon. T.G. ROBERTS: I have been provoked slightly by the Hon. Mr Davis's contribution concerning bias in the media. He raised the issue of bias that was shown by one journalist, Terry Plane, in the Messenger Press. I was going to make a more detailed contribution on the presentation of the Auditor-General's Report, and I must congratulate the Auditor-General on its size, depth and detail and the way in which it has been presented. I would be telling fibs if I said that at this stage I have read all the documents. Certainly, those investigative journalists who operate in this State have had a chance to peruse the Auditor-General's Report and report on some of the problems and have exposed the Government's inability to tell the public exactly what is going on in relation to the changes in the way in which Governments now govern.

We are living in a period of rapid social and economic change, and we have had a lot of changes in the way in which Governments are governing. In some cases in this State and other States we are moving towards a climate of overload with regard to some information and material, and in other cases underexposure because of the way in which many departments have been operating. We had a plethora of select committees set up during the life of the last Government to try to get information out of departments and the Government and put into the public arena so that the public can make up its mind regarding some of the important issues related to that social and economic change to which I alluded earlier and which has been so rapid.

There has been a conservative revolution in relation to privatisation and outsourcing in particular, and the selling off of the public's assets. I take issue with the Hon. Mr Davis because although there may be—and I only say 'may be'—one journalist who is prepared to attack the Government, and in some cases it may be in a personal way rather than an investigative way in relation to major issues, it nevertheless has put the Government on notice that there is at least one journalist in Adelaide who is prepared to take on the sitting Government.

I would not cry too loudly if I were the Hon. Mr Davis. I do not have the time, effort, energy and resources that he has to go through the rest of the media in this town, but I am sure that upon looking through the *Advertiser* and the Messenger Press, and perhaps with the exception of the *Adelaide Review* to some extent, we might find a weighted loading against the Opposition forces. The Opposition—both the Democrats and the Labor Opposition—did very well in the last election with little or no assistance from so-called biased journalists. I am certainly not crying foul because of some of the broadsheet articles that were written about some of the personalised bitterness and disputes that were going on in the Liberal Party: that had nothing to do with the way in which the governance was acting and the way in which the Government

had put together its machinery, process and propaganda to try to educate and inform the public.

We now have a reformed process inside the Liberal Party which is modelling itself on the Victorian program, which is to have a media unit that will selectively feed information to some journalists and try to prevent other journalists from getting that information. There will be a feeding frenzy for some and there will be isolation for others. We will then have the problems associated with some journalists getting their material on front pages, page 1 and page 3, and other journalists will be grasping for their leaks.

The Hon. Mr Davis ought to talk to Terry Plane about where he was getting his information because it may not be the journalist who is the problem with regard to the leaks and information that found their way into the Messenger Press. I suspect it may have more to do with the divisions within the Government. A number of people were prepared to ring him without him getting off his seat. He was able to become an investigative journalist sitting at his desk—

An honourable member interjecting:

The Hon. T.G. ROBERTS: Rich with material!

STANDING ORDERS SUSPENSION

The Hon. R.I. LUCAS (Treasurer): I move:

That for this session Standing Order 14 be suspended.

This procedure has been adopted in recent times to allow for consideration of other business before the Address in Reply has been adopted.

Motion carried.

UNFAIR DISMISSALS

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

That the regulations under the Industrial and Employee Relations Act 1994 concerning unfair dismissal, made on 4 September 1997 laid on the table of this Council on 2 December 1997, be disallowed.

I remind members that the Opposition moved this Notice of Motion in the previous session of Parliament, and I have moved it again for the same reason as previously stated, that is, that the regulation is far more wide reaching than the basis for the legislation. The basis for unfair dismissals was debated at about the same time as complementary legislation was being introduced and debated both at Commonwealth and State levels.

Much emotional talk occurred in the public arena about how difficult it was for some businesses to dismiss employees for a whole wide range of reasons. The Government then overreacted. There were ways in which employees who were guilty of breaches of their employment conditions were able to be dismissed, but in many cases most employers took a very heavy-handed approach to dismissal and, in some cases, totally disregarded the given rights of individuals within their employment premises.

Part of the problem with the legislation was that there was no consistency in the way in which the regulations were to apply, and they were totally discriminatory. If members take the time to talk to major employers both in big business and small business who have a vested interest in investing time, energy, effort, resources and education in employing persons who are major contributors to those enterprises, they will discover that employers, both large and small, place a great deal of emphasis on having skilled, loyal, dedicated employees. They are the ones who achieve the best returns.

I should have thought that the Government would sit down and talk to employers who dismissed or abused their employees and made them aware that, in the days of increased technological advancement and diminishing margins and returns, they do not need heavy-handed legislation to enable them to dismiss employees in the way in which those regulations indicated.

As I said, the regulations were far more reaching than were the indications of the principal legislation, and they were certainly very discriminatory. I would like to have had the matter dealt with today but I understand that the Democrats will look at their position and make a contribution next Wednesday.

The Hon. Carolyn Pickles interjecting:

The Hon. T.G. ROBERTS: Hopefully, we will be able to vote on it next Wednesday. The other point I make is that the Bill and the regulations do not suit the climate of the day. The regulations are discriminatory against certain classes of employees and, if members draw an application through the classes of employees who will not be covered if the regulation is to be maintained, they will find that those employees who have the least amount of power now will have totally negated any rights that they had under previous law. As I said previously, it is those employees who need the support and assistance of, if not legislation, certainly enlightened employers to enable them to become important cogs in a business enterprise.

The Opposition asks the Government to signal to those employers who want impediments removed in a climate where employment contracts and processes as a whole are making it easier for them to dismiss employees that they are getting their corporate plans horribly wrong. Casual employees will be the victims of this regulation. As I said previously, they are the persons who have the least amount of protection in any employer-employee relationship. They would be particularly young people and particularly women. We are finding now that the regulation discriminates unfairly, having regard to the nature and the circumstances of employment and the length of time for which an employee is employed at a particular premise.

What we have now is a diminishing number of people being maintained in permanent employment and the conditions that permanent employment brings. In many cases it is supposed to bring security and a better relationship between the employer and employee; employers are able to get to know their employees at a personal level; and they are encouraged through industrial relations or good human relations to get to know how they fit into a corporate plan and the problems that they experience as individuals raising families in today's society and organising their work.

At the moment we have a trend entirely towards the opposite. For example, employees are employed for short periods. In many cases corporate bodies have no interest in those people as occurred in the past. We have high turnover. We have a high incidence of casualisation and part-time employment, and we have symbolically broken the relationship between the employers and the employees.

The other thing that goes with that is that you do not get loyalty or the keenness of employees to protect employers' interest, which is something the employers take out of the equation when they look at the bottom line. When account-

ants advise them to move from permanent employees to part-time employment, they look at a bottom line based on pay rates, conditions and their ability to have a power relationship over those employees. In many cases it is done for all the wrong reasons, to break what they see as some sort of power relationship between trade unions and their own ability to run their business enterprise as they see fit.

However, enlightened employers use the resources of trade unions and their individual employees to muster a feeling of respect—respect for the individuals themselves, respect for their workplace and respect for their skills—that is able to be harnessed as a positive instead of going for the easy fix of trying to bring in regulations that make it easier for employees to be cut free.

I have been interested in some of the euphemisms that are used in reasons for sacking people. Probably one of the most euphemistic and harmless sounding is, 'We had to let them go.' almost as if they were breaking their necks to leave and they really did not want to be there. It is said,'We let them go and they were happy to go.' Most people in employment, particularly now when jobs are very difficult to get, certainly do not want to leave the security of employment. They do not want their hours cut, but they are prepared to work with an enterprise at enterprise level. If there are changes in those enterprises they are prepared to work with employers and to work through those hours on a basis that is satisfactory to the employer and to the employee. They prefer to deal through and take advice from their unions to work out what are their rights industrially and legally, but many organisations do not have organised union representation with whom they are able to sit down at an enterprise level and work these things through. As I have said, it is for those employers, both large and small, who have a different attitude that these regulations will become very handy.

What we are finding now with the changing nature of employment and hours of employment—and I guess the Hon. Mr Lucas would understand this—is that where you have a lot of young people employed in enterprises the power relationship between young people and their mature aged employers is certainly not based on equality and fairness. In most cases, young people must take advice from parents and/or union representation in relation to working out their wages, conditions and hours of employment.

If these regulations are insisted upon and these trends are picked up by those organisations that do not have much respect for the problems that individuals have within family structures, there can certainly be a lot of dislocation within a family unit if young people's wages, conditions and hours are continually changing and the threat of dismissal is constantly hanging over their head.

The other thing I am finding is that in many cases now many young people, and in particular women, must work in two if not three premises to get the number of hours they require to live, to pay their rent, to keep up with their financial commitments and to clothe and feed themselves. In many cases they have to take 10, 15, 20 or 25 hours in two or three business premises. It is very difficult for them to move from one job to another. Some jobs require overtime to be worked, and with the threat of not working that overtime they can lose their job. Transport between those jobs then becomes difficult, and making contact with other employers—if you are working in a place that has overtime requirements—becomes very difficult.

The juggling that many employees are doing is underestimated, certainly by the statisticians. Most of it is anecdotal information that is being provided, but I can assure members that that is what is happening to many young people now. They need that feeling that they will not be unfairly dismissed and that they will have some recourse to legislative protection and will not have to go to the Supreme Court or any other court and that they have some access to protection via legislation with which all parties can agree. I hope that the Government will reconsider its position on its current move to keep reintroducing the regulations.

The Hon. M.J. ELLIOTT secured the adjournment of the debate.

EDUCATION (GOVERNMENT SCHOOL CLOSURES) AMENDMENT BILL

The Hon. M.J. ELLIOTT obtained leave and introduced a Bill for an Act to amend the Education Act 1972. Read a first time.

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

That this Bill be now read a second time.

This Bill is a response to an increasing concern in the community which goes well beyond the Education Act itself: it goes to the very heart of what people expect to happen in a modern democracy, that is, that people expect that Governments will engage themselves in genuine consultation processes. I think it is fair to say that, generally, the South Australian community does not believe that that is any longer occurring in South Australia. If the Government wants to learn some lessons from the last election one lesson it can learn is that the community is changing rapidly, and it is a community that expects genuine consultation.

I do not believe that the parents from the Croydon Primary School could have maintained the rage, if you like, as long as they did or with as much support as they did if there was not a genuine commitment backing it up. As a former school teacher, I believe that the parents' case for the retention of their school is very solid. Certainly in terms of the size of that school alone one could never sustain a case, in terms of educational standards, that that school was too small. If you tried to sustain that argument then a large number of other schools in the metropolitan area would close.

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: That is right. There are at least a dozen schools, and I expect many more than that, in the metropolitan area significantly smaller than that particular school. There is also a failure by the bean counters, even if they say, 'Look, perhaps the money could be more efficiently spent if we amalgamate that school into a bigger school. Although perhaps a school of 200 students does not provide a bad education we can provide a better education by carrying out some amalgamations.'

If bean counters take that approach then they are showing that they are nothing more nor less than bean counters because they fail to understand the important role that the community itself plays in schools as well as the important role that schools play in the community, and that is particularly true of primary schools. I say that as a person who has taught predominantly in high schools but who has also been engaged in teaching in area schools. At different times I have taught all grades, from year 3 through to year 12. Parents, as I think any person would acknowledge, play a significant role in the education process.

Sometimes it is a great mistake to assume that schools will do it all—indeed, they do not. As far as positive education is

concerned we want to engage parents actively in the education process within the schools. The Government must realise that if it closes some of these smaller schools and merges them with other schools one consequence will be a drop in the parent participation within that school community, and it will probably happen for two reasons: first, I believe that parents in small schools tend to be more actively involved than parents in larger schools on a *per capita* basis. Large schools can be very overwhelming and because some parents seem to be there doing some things other parents do not step forward. Secondly, if you are carrying out mergers of schools you are asking people to start travelling farther. With respect to the Croydon Primary School example, whilst the difference in the amount of travel in a car might be only five minutes, many people do not drive, but walk. It is not a wealthy community and, in fact, the schools that their children are then being asked to attend are outside their local community. I do not want to go into the merits of that particular school in depth other than to touch on some of the issues that I believe have not been adequately addressed.

There is no doubt that, while there was support among the parent body for the potential for a closure of that school, the question asked of them was not: do you or do you not support the closure of Croydon Primary School? A number of options was presented, one of which was that there would be a relocation onto the site of the Croydon High School—a site that is very close by and sits still within the heart of the same community. As I understand it, quite a few parents supported that option. They are now being told that by supporting that option they supported the closure of the school. Of course the closure of the school does not entail that particular option.

In fact there will not be any relocation of the Croydon High School site: the children will be asked to attend other schools that are significantly farther away and outside their immediate community. The idea of community, I argue, is an important one, and anyone who has lived in country areas should have a better understanding of how important community is. I suppose in country areas communities can be seen more easily because they are discrete: you can see the town, the school within it and you can see a surrounding farming community. That sort of community is easily identifiable, but I say to people that those communities can and do exist within suburban areas and the school is an important part of that community.

I argue again that both the community, the school and indeed the children within the school suffer if the community school is lost. Closure of a school must be done for a very good reason, and if one looks at the Croydon Primary School it is hard to see that reason. It was a school of about 218 students at the time of the announcement of closure. I have seen the demographic projections and student numbers were unlikely to drop below 200. In other words, it was a school population that was quite stable. I believe that we are now seeing a trend among the inner suburbs of new generations moving in. We are now seeing families shifting into areas that perhaps only 10 or 20 years ago were populated by couples without children (their children had grown up and gone), but now those people are slowly being replaced.

We will never reach the same population levels of children as we had when those suburbs first started—you always go through that initial boom—but I believe that, in a number of inner suburban areas, you will see a marginal lift and then a stabilisation. If the Government does adopt an urban consolidation program which has been talked about for a long time but which has not been persisted with then that sort of trend will accelerate, instead of pushing poorer families, in particular, out to the urban extremes, as has been the policy for far too many decades in South Australia.

This Bill is about process. It is not just about the Croydon Primary School but that school was the example. This Bill does not seek to take away the power of the Government and the Minister to close a school but seeks to put in place a clearly defined process should a decision be made to close and should the majority of that parent community feel that a wrong decision has been made. The parent community can seek to establish a review. My Bill is modelled on legislation already in force in New South Wales whereby the Minister's having announced that a school would be closed a review committee would be established. That review committee would examine that decision to close. What is most important are the guidelines given to that committee.

The committee will seek submissions. It will see demographic and educational advice. It will seek submissions from teachers, parents and representatives of the local communities. Finally the committee will make recommendations relating to the closure that must take into account educational, social and economic needs of the local community likely to be affected by the closure and of the needs of the State as a whole.

Within this legislation, a time frame is in place. It is expected that, 18 months out, the Minister would give notice of an intention to close the school—that would be in June of the preceding year. If the majority of parents reject that proposal, that would allow an opportunity to initiate the establishment of a review committee. That review committee would comprise seven people: two people nominated by the Minister; one would be the Director-General or the Director-General's nominee; one would be the nominee of the Local Government Association; one would be nominated by an organisation that represents parents; one would be nominated by the chairperson of the school council in question; and one would be nominated by the Australian Education Union.

Of those seven people, all of whom are appointed by the Minister, two are appointed entirely at the Minister's discretion and because one is the Director-General or the Director-General's nominee, three of the seven are quite close to the Government. Having conducted a review, the committee must base its recommendations on the educational, social and economic needs of the local communities as well as the needs of the State as a whole. The committee will be required to report by 30 September, and submit the report to the Minister.

If the committee recommends that the Government school should not be closed, the Minister would then be asked to respond to Parliament. In fact, the Bill as circulated requires that the recommendation appear in a newspaper circulating within the State. An amendment is being drafted to require the Minister to report directly to Parliament on the matter, giving reasons if the Minister decides not to take the advice to close the school, rejecting the recommendations of the committee. Ultimately it does not stop the Minister from closing the school. I seek to establish a review process which focuses very clearly on the school in question and which, at the end of the day, everybody can say they felt was a fair and impartial review, whether or not they agree with the final result.

The one final aspect of the Bill, which is covered in clause 4, is a transitional provision where three schools which are targeted for closure at the end of this year, that is, Croydon Primary School, Croydon Park Primary School and

McRitchie Crescent Primary School, will have the opportunity to have the processes established under this legislation to apply to them. At best, as far as those schools are concerned, it will give them a one year reprieve. It is not a guarantee that they will survive beyond that, but I hope that a more thorough investigation may offer those schools an opportunity for reprieve. Having spoken with the communities involved with two of those three schools, I think that, on the surface, they appear to have a very good case.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: As I understand it, the parents had accepted the decision. My initial instructions to Parliamentary Counsel were different from this and the honourable member might understand the way these things work. When the Bill was drafted, it contained a different transitional process whereby it relied upon coming into force immediately on assent. However, I was not sure when Parliament would rise and assent can take 10 days after that, by which time the schools might have been technically closed and not offered the protection of this Bill. At that point, I asked for a different transitional process to be drafted, and at that point the drafting sought to mention particular schools.

The Hon. R.I. Lucas: Why only Labor electorates?

The Hon. M.J. ELLIOTT: Is Iron Knob not in a Labor electorate? It only has eight students.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: Of course! Don't be ridiculous.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: I have had contact only with these schools. I have not had a single letter or a single phone call—

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: That is nonsense, too. I have not had a single letter or a single phone call in relation to any of the other schools. I have received significant submissions from these schools, and I have since spoken with several people in the community. If the Minister wants to amend the Bill and include the other schools, I will accept it.

The Hon. Diana Laidlaw: Why don't you amend it yourself?

The Hon. M.J. ELLIOTT: No, I am saying that I accept it.

Members interjecting:

The Hon. M.J. ELLIOTT: My understanding is that things have proceeded further in relation to Camden and we would have been left with the impossible task of unscrambling an egg that had already been scrambled.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: What you are saying is that things have progressed further than they have in relation to these schools. If the Minister wants to amend this Bill and include other schools that he feels deserve it, I have no problems with that.

It is worth noting that the Ombudsman has viewed with grave concern the processes that have been carried out, and I do not think that the former Minister or his department can feel that they came out smelling of roses. The Ombudsman has exposed this process as a sham and decisions were made regardless of the reviews. Since that time, the Minister has been trying to justify the unjustifiable. He has played with the figures, suggesting that the majority of parents supported the closure, but he neglected to point out that a number of people who supported closure did so in the belief that another school was to be built in the near vicinity.

As far as the Hon. Mr Lucas is concerned, Parliament is all a game, it always has been, and the talk in the corridor is that his behaviour has deteriorated in recent times. It is increasingly becoming a game that has nothing to do with real outcomes for real people; it has more to do with simple Party politics. Sometimes the backbenchers find it entertaining, but he is not taking the State anywhere useful when he plays those sorts of games. He had a reputation as a Minister who—

The Hon. Diana Laidlaw: It is a pretty slack second reading speech to introduce a Bill. It is pretty biased and personal.

The Hon. M.J. ELLIOTT: Only after interjections, might I point out to the honourable member.

The Hon. Diana Laidlaw: It is pretty slack in terms of the forms of the Parliament that you don't even prepare a second reading speech.

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: The major points have been made. I urge members to support the second reading, and I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 9—General powers of Minister

This clause provides that the Minister may close a Government school subject to new Part 2A (*see clause 3*).

Clause 3: Insertion of new Part

PART 2A—CLOSURE OF GOVERNMENT SCHOOLS

14A. Application of Part

This clause provides that a Government school cannot be closed except in accordance with new Part 2A.

New Part 2A does not apply to—

- the temporary closure of a Government school in an emergency or for the purposes of carrying out building work; or
- the closure of a Government school if a majority of the parents of the students attending the school indicate that they are not opposed to the closure.

14B. Initiation of procedure for closure of Government schools

The provisions set out in new section 14B apply in relation to the closure of a Government school to which new Part 2A applies.

These provisions are—

(1) the school cannot be closed except at the end of a calendar year;

(2) the Minister must, not later than 15 June in the year preceding the year of the proposed closure of a school—
- notify the head teacher and the presiding member of the school council of the proposal to close the school; and
- publish a notice of the proposal in a newspaper circulating generally throughout the State;

(3) the Minister must, within 21 days of giving such notice—
- appoint a committee to review the proposed closure; and
- provide the committee with details of the Minister's reasons for the proposed closure and copies of any reports or other documents prepared by or for the Minister or the Education Department relating to the proposed closure.

14C. Review committee

A review committee will consist of 7 persons (including representatives of the Minister, the Education Department, Local Government and parent and teacher organisations) appointed by the Minister.

14D. Conduct of review

In conducting a review of a proposal to close a school, a committee must—
- call for submissions and seek expert demographical and educational advice relating to the school's present and future use; and
- invite submissions from, and meet with, teachers and parents of students of the school and representatives of local communities likely to be affected by the closure of the school.

The committee must have regard to the educational, social and economic needs of the local communities likely to be affected by the closure and of the needs of the State as a whole when making its recommendation.

14E. Report on review

A committee must submit to the Minister its report on the review and its recommendation by 30 September of the year in which the committee was appointed.

14F. Publication of decision not to accept committee's recommendation

If a committee recommends that a Government school should not be closed and the Minister does not accept that recommendation, the Minister must, within 21 days of receiving the committee's report, publish in a newspaper circulating generally throughout the State the Minister's reasons—

- for closing the school; and
- for rejecting the recommendation of the committee.

Clause 4: Transitional provision

This clause provides that new Part 2A will apply in relation to the closure (which will be taken to be void and of no effect) of—

Croydon Primary School; and

Croydon Park Primary School; and

McRitchie Crescent Primary School,

as if the Minister had given notice of the proposed closure of those schools under proposed section 14B*(b)* (*see clause 3*) before 15 June 1997.

The Minister must, within 21 days of the commencement of this measure—

- appoint a committee to review the closures of the schools listed above; and
- provide the committee with details of the Minister's reasons for the closures and copies of any reports or other documents prepared by or for the Minister or the Department relating to the closures.

The effect of the transitional clause will be to bring the closure of the 3 listed schools into the regime established by new Part 2A (*see clause 3*).

The Hon.CAROLYN PICKLES (Leader of the Opposition): I support the second reading. It is interesting to note that, in another place, the Minister has tabled a ministerial statement about education and school closures which contains a number of inaccuracies. The first inaccuracy which I should like to highlight is his statement that the process dealing with school closures is no different from that used by the previous Labor Government.

The Hon. R.I. Lucas: Hear, hear!

The Hon. CAROLYN PICKLES: The former Education Minister may well say 'Hear, hear!', but he is wrong and he should go back over history to find that he is wrong. I recall very clearly that the then Labor Government Minister (Hon. Susan Lenehan) clearly stated that no schools would be closed unless the community agreed.

Many communities have not agreed to this particular closure. When I was the former Shadow Minister for Education it was my very sad duty to visit a number of these schools that were facing closure, including Sturt Street, Port Adelaide, Findon, The Parks, Croydon, McRitchie (Whyalla) and a number of others. Indeed, it must be a very sad day when the former Minister sits in here, smirks and thinks it is amusing that these very fine schools have closed never to open their doors again because of his stupid policies. We expected that the new Minister, the Hon. Malcolm Buckby, might be a bit more sensible about this issue but, no, he is not more sensible; in fact, he continues with the former Minister's same careless and uncaring policy. I am very disappointed with the Hon. Mr Buckby, whom I do not know personally very well. I sat on a committee with him very briefly; he seemed to be a sensible person but, apparently, he is not.

The Hon. R.R. Roberts: The Cabinet will knock that out of him.

The Hon. CAROLYN PICKLES: He is, after all, a member of the Liberal Party; so that is what we come to expect. The Opposition does recognise that changing demographics and the need to upgrade and modernise schools may create circumstances that warrant the amalgamation or closure of a school. There are often powerful reasons and strong community support that would override a closure. It is vital that reasons to maintain schools also receive due consideration and not be overwhelmed or swept under the carpet by arguments for closure. That is not a formula on which a decision to close a school can be made. It is true to say that, sometimes, small enrolments restrict curriculum offerings. It is also true to say that smaller schools can often offer close attention to the special needs of individual children as well as generate strong community participation and support for the school.

At the last election we went to the people with a policy which said that any review process should improve the education outcomes for children and not just be a budgetary imperative to create a pool of capital from the sale of school properties in terms of reducing recurrent expenditure. It is interesting to note that in 1997-98 the budget estimate for capital receipts from the sale of land and buildings was $13.5 million, while in the previous year it was $14.5 million. This budgetary approach accords with the Government's Audit Commission Report which, in April 1994, argued that South Australia had a greater number of smaller schools than the Australian average and that this represented a cost penalty. That report suggested that 300 was an optimum number for primary schools and that 600 to 800 was an optimum number for secondary schools.

During the last four years the Government has conducted reviews on the future of many individual and/or clusters of schools. The process involves school communities. Many schools were closed by the Minister either against the recommendation of the review and/or against the wishes of the whole school community. I have highlighted those closures that did not have the support of the school community as being Sturt Street, The Parks, Port Adelaide Girls High, McRitchie Primary School, Croydon Park Primary, Croydon Primary and Findon Primary School. On many occasions, the former Minister decided to ignore the advice of the review and, indeed, to ignore the advice of his own department.

Obviously, Croydon Primary School received a lot of attention during the election campaign. The people of that community demonstrated that they had the commitment to carry on an overwhelming campaign. I believe that they campaigned very well indeed. I would have thought that a sensible Premier and a sensible Minister would have listened to the views of those very concerned parents. They argued a strong case for the retention of the school. Instead of closing the school, the Minister and his department should have acknowledged the level of parental support by embracing and harnessing the community's enthusiasm for the future of their school.

In the case of Croydon Primary, the Ombudsman found that the review process was flawed, that the co-chairpersons of the school council were misled into signing off on the review document and that the dissenting report by Croydon was not given due consideration. Even the advice of the department's Executive Director for School Operations that Croydon Park Primary and the Croydon Primary School should be amalgamated and relocated at the Croydon High School site was ignored by the Minister.

On 24 October 1997 the present Minister justified the closure of Croydon on the grounds that 'You can't keep six schools open for 1 100 students.' I wonder what kind of message that sends to the communities that host the 200 primary schools in South Australia which have fewer than 200 students. In fact, five schools in the Minister's own electorate have fewer than 100 students. Hewett has 97 students, Rosedale 35, Roseworthy 74, Tarlee 44, and Wasleys 57. I wonder whether the Minister will be reviewing the schools in his own electorate on that basis.

As the Hon. Mr Elliott pointed out, the legislation has been introduced because of community disquiet about the wholesale loss of schools and the Government's announcement during the election that more would be on the way. As I have indicated before, on certain occasions and because of changing demographics and other reasons, the Government of the day does have to close schools. I am not arguing that issue. What I am arguing and what the Hon. Mr Elliott is arguing is that the whole process is flawed. Indeed, I believe that the former Minister closed schools by way of press release. He did not give schools time to argue the case.

The Opposition does have some amendments to this Bill which we were unable to table because we had only just received a clean copy of the Bill. We understand that the Hon. Mr Elliott wishes to expedite the process of this Bill through the Parliament. The Opposition will seek to introduce tomorrow its own Bill on this issue. I believe that the Opposition and the Democrats are very close together on this. I understand that some of the Independents in another place have indicated their support for the principle of this legislation. So, it is clear at this point in time, although people do change their mind, that something will pass which deals with the whole of the new process. As a former Shadow Minister for Education I am very pleased indeed that the Government will be put on notice and that the whole review process of dealing with this issue in terms of ignoring the views of the community, in particular the Croydon Primary School, will be changed by the passage of this legislation. I support the second reading.

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

UNCLAIMED SUPERANNUATION BENEFITS BILL

The Hon. R.I. LUCAS (Treasurer) obtained leave and introduced a Bill for an Act to provide for the payment of unclaimed superannuation benefits to the Treasurer; and for other purposes. Read a first time.

The Hon. R.I. LUCAS: I move:

That this Bill be now read a second time.

This Bill will provide the State with legislation complementary to that of the Commonwealth and similar to that either already introduced or being introduced by the other States, for the administration of unclaimed superannuation fund and approved deposit fund moneys.

The Bill will enable superannuation funds and approved deposit funds registered within South Australia to report and pay to the Treasurer unclaimed benefits held by the funds as at 30 June 1997. Without this arrangement, the unclaimed benefits would be payable to the Commonwealth Commissioner of Taxation.

The trustees must report member and benefit details to the Treasurer for the purposes of maintaining a superannuation unclaimed moneys register and paying subsequent claims.

The provisions of the Bill also provide for six monthly reporting and payment to the Treasurer by a trustee where the money of a member becomes unclaimed. The six monthly reporting timetable is standard for trustees in all States and Territories. The standard arrangements enable the superannuation industry to adopt a common procedure in its dealings with the various jurisdictions in respect of unclaimed benefits and will facilitate compliance at a minimum cost.

The Bill will enable potential claimants to more easily identify their entitlements. Finally, this legislation demonstrates South Australia's commitment to working in cooperation with the other States and the Commonwealth to facilitate a national database on unclaimed superannuation benefits as a flow on from the individual State registers. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Interpretation

Clause 3 defines terms used in the Bill. The Commonwealth Act requires unclaimed superannuation benefits to be paid to the Commissioner of Taxation unless a State law that meets the requirements of Part 22 of the Commonwealth Act requires that they be paid to an authority of the State. In order to meet the requirements of the Commonwealth Act it is important that terms used in the Bill match exactly terms used in the Commonwealth legislation.

Clause 4: Application of Act

Clause 4 sets out the circumstances in which the new Act will apply in South Australia. It is intended that this provision be uniform with the corresponding provisions in interstate legislation so that there is no overlap.

Clause 5: Statement of unclaimed superannuation benefits

Clause 5 provides for the trustee of a fund to give the Treasurer statements of unclaimed superannuation benefits in the fund.

Clause 6: Payment of unclaimed superannuation benefits

Clause 6 provides for payment of the amount of unpaid superannuation benefits to be made to the Treasurer for payment into the Consolidated Account.

Clause 7: Treasurer to refund certain amounts

Clause 7 requires the Treasurer to pay an unclaimed benefit paid to him or her under clause 6 if the person entitled to the benefit comes forward and claims it.

Clause 8: Register of unclaimed superannuation benefits

Clause 8 provides for a register of unclaimed superannuation benefits to be kept by the Treasurer.

Clause 9: Discharge of liability

Clause 9 discharges a trustee who pays unclaimed benefits to the Treasurer from further liability in relation to those benefits.

Clause 10: Trustee not in breach of trust

Clause 10 provides that a trustee acting in accordance with the new Act is not guilty of a breach of trust.

Clause 11: Conflict with governing instrument of public sector scheme

Clause 11 provides that where, in the case of public sector schemes, there is a conflict between the new Act and a provision of the Act or other instrument under which the scheme operates, compliance with the new Act will be taken to be compliance with the instrument governing the scheme.

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

LOCAL GOVERNMENT (HOLDFAST QUAYS) AMENDMENT BILL

The Hon. R.I. LUCAS (Treasurer) obtained leave and introduced a Bill for an Act to amend the Local Government Act 1934. Read a first time.

The Hon. R.I. LUCAS: I move:

That this Bill be now read a second time.

The Glenelg West Beach Development involves a comprehensive and integrated program of works aimed at achieving certain outcomes, namely:

- improved water quality in the Patawalonga,
- improvements in the quality of water discharged from the Patawalonga to the gulf,
- improved recreational boating facilities, including provision for all weather, all tide boat launching and sea access, with appropriate car and trailer parking,
- new tourism infrastructure and economic activity in the area, and
- enhanced community recreation opportunities.

The State Government accepted an obligation to deliver these outcomes under agreements entered into with the previous Commonwealth Government under the Building Better Cities Program.

Up to this time, the Government has:

- initiated arrangements for a total catchment management approach to cleaning up the Patawalonga, through the Patawalonga Catchment Water Management Board,
- removed the build-up of sludge from the Patawalonga basin and thus eliminated the discharge of polluting black plumes into the gulf, and
- removed the Patawalonga sand bar and developed basic harbour facilities in the mouth of the Patawalonga.

In December 1995, a Master Plan prepared by the Holdfast Shores Consortium for the Glenelg foreshore was publicly released. Since then, the Master Plan has been subject to comprehensive public scrutiny and analysis through an Environmental Impact Assessment process and the preparation, display and authorisation of a Plan Amendment Report under the Development Act.

Under the Holdfast Shores development, the grassed areas of Wigley and Colley Reserves remain as public reserve land and public access and use of the foreshore and beach areas are maintained. Full public access will also be available around the edge of the marina basin at the end of Anzac Highway.

The Holdfast Shores project provides a $185 million redevelopment of Adelaide's premier tourist foreshore area. It generates jobs and economic activity. It produces direct revenue to the State Government which exceeds the costs to be incurred by the Government in bypassing sand at Glenelg in order to properly maintain the harbour and the beaches.

The development at Glenelg enjoys general community support and is fully supported by the local council.

Development Agreements have been negotiated with the Holdfast Shores Consortium, the City of Holdfast Bay and affected stakeholders such as the Glenelg Sailing Club and the Glenelg Lacrosse Club. This most significant project has progressed to the stage where the main commercial parts of the project can now be developed.

With the development now poised and ready to be delivered, the Government needs to address an issue concerning the legal status of a part of the relevant development site. A part of the site is subject to section 886ba of the Local Government Act. This section required the Glenelg Council and now the City of Holdfast Bay to hold the land as public park and to not deal with the land without the consent of the Minister of Local Government.

The land subject to this section of the Act currently includes part of the Anzac Highway car park, part of the beach area in the Patawalonga used by the Glenelg Sailing Club for boat launching, most of the amusement area west of Colley Reserve and the site of the Glenelg Life Saving Club.

Whilst the City of Holdfast Bay and the Government both support the development as presented in the Master Plan, and the council has granted its consent for works to commence, the legislation is necessary to enable relevant land to be formally vested in the Crown and included in the development site. The legislation does not extinguish existing rights of affected stakeholders.

The draft Bill facilitates this important project and supports the re-vitalisation of the Glenelg foreshore. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will brought into operation by proclamation.

Clause 3: Amendment of s. 886ba—The Glenelg amusement park and vesting of land

Section 886ba of the Act is to be amended to vest certain land at Glenelg in the Minister for Government Enterprises. However, the vesting will not operate to extinguish the rights of a lessee or licensee under a lease or licence granted by the Council before the introduction to Parliament of this measure. The Governor will be able, by proclamation, to fix the seaward boundary of the relevant land in order to provide complete certainty for the redefinition of boundaries in due course (if required).

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

GAMING MACHINES (GAMING VENUES IN SHOPPING CENTRES) AMENDMENT BILL

The Hon. R.I. LUCAS (Treasurer) obtained leave and introduced a Bill for an Act to amend the Gaming Machines Act 1992. Read a first time.

The Hon. R.I. LUCAS: I move:

That this Bill be now read a second time.

This Bill seeks to amend the Gaming Machines Act 1992 to prohibit the Liquor and Gaming Commissioner from granting a gaming machine licence or in any other way allowing gaming machine operations in a retail shop.

On 17 August 1997 the Premier announced that he would move to have the Gaming Machines Act 1992 amended, effective from 17 August 1997, to stem the undesirable trend of gaming machines in shopping centres. This trend towards gaming machines in shopping centres was not envisaged by Parliament when the Act was passed and is not in the public interest.

While there are many in the community who decry gaming machines, there are others who see them as a legitimate form of entertainment. The key is entertainment and it is socially unacceptable for gaming machine venues to be located in a shopping centre or promoted in such a way that they compete openly and explicitly for the household dollar rather than the entertainment dollar. It is unacceptable that household money set aside for staples could be diverted on a whim to gaming because of the temptation and the attraction of gaming venues located enticingly in shopping centres or in single shops for

that matter. This amendment will ensure that gaming machine licences cannot be granted in these situations.

This Bill does operate retrospectively and the Government is aware of one project that will be prevented from installing and operating gaming machines, even though the proponents applied for a gaming machine licence prior to 17 August 1997 when the Government announced this measure. The Government's legal advice is that the Government has no legal obligation to compensate the proponents of that project. However, the Government is sympathetic to their particular circumstances and accordingly I have written to them and have offered (should the Bill be passed in its present form), on a without prejudice basis, to make an *ex gratia* payment for certain expenses actually incurred by them prior to 17 August 1997. Any payment made pursuant to that offer would have to be properly verified by documentary proof of the expenses actually having been incurred, would only be made for expenses that were reasonable, and would be subject to certain other conditions specified in my letter. I believe that this amendment has the support of the general public.

A schedule of statute law revision amendments is appended to the Bill. These amendments are non-substantive and mostly make changes consequential on the new Liquor Licensing Act terminology, and convert divisional penalties into specific dollar amounts in line with Government policy.

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

Leave granted.

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that the operation of the new section prohibiting gaming venues from being located under the same roof as a retail shop or within a shopping complex will be backdated to 17 August 1997. The rest of the Act comes into operation on assent.

Clause 3: Insertion of s. 15A

This clause inserts a new section prohibiting the Commissioner from granting (on or after 17 August 1997) any application under the Act that would have the result of premises to which a gaming machine licence relates, or a gaming area, being under the same roof as a retail shop or being located within the boundaries of a shopping complex. Subsection (2) makes it clear that the prohibition applies even if the particular application was made before 17 August. Any such grant on or after that date will be void. Subsection (3) excludes hotel bottle shops and specialty shops within hotels from the prohibition and also provides that the prohibition does not apply within the City of Adelaide (as bounded by the four terraces). Subsection (4) makes it clear that licensed premises located within the grounds of a shop or shopping centre will be regarded as being located within the complex if the land on which the premises are situated was part of that complex immediately before planning approval was given for the establishment of the licensed premises. Licensed premises that adjoin a shopping complex will also be regarded as being located within the complex if the Commissioner is of the opinion that they are so linked to or integrated with the complex that they may properly be regarded as forming part of the complex. Subsection (5) contains some necessary definitions. The definition of 'shopping complex' brings within the ambit of the prohibition all the parking and other areas ancillary to a shop or shopping centre.

Clause 4: Statute law revision amendments

This clause and the schedule make sundry non substantive amendments of a statute law revision nature.

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

ROAD TRAFFIC (SPEED ZONES) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a Bill for an Act to amend the Road Traffic Act 1961. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

This Bill proposes amendments to the Road Traffic Act 1961 ('the Act') which relate to signage used for school zones and remove any ambiguity in the law about school zones and speed zones operating at certain times of the day only.

Currently, section 49 of the Road Traffic Act provides for the operation of special speed limits in the vicinity of schools. Section 49(1)(c) states that drivers are restricted to a speed of 25 km/h when travelling between two signs bearing the words 'School' and 'End school limit', at times when children are proceeding to and from school on that portion of the road. Section 49(1)(d) imposes a speed limit of 25 km/hour when approaching and within 30 metres of a pedestrian crossing where flashing lights are in operation and at the approach a sign bears the words 'School crossing ahead'.

Section 49(1)(c) requires prosecutors to prove the fact that children were travelling to or from school at the time, as an essential element of the offence. It also requires drivers to recall correctly all the requirements of the particular legislation, and to keep an eye out for children at all times of the day, seven days a week. The wording of the provision is such that the speed limit applies wherever children are travelling to or from a school, including for purposes such as weekend sporting fixtures, evening concerts and even vacation programs.

This makes it very difficult for drivers to know when they are expected to keep the to the lower speed limit. The situation is even more complex for interstate drivers, who are expected to know that the school speed limit in South Australia is 25 km/h, even though it is 40 km/h in many other States. Similarly, drivers are also required to recall correctly the provisions of section 49(1)(d), since the 'school crossing ahead' signage gives no indication of the speed limit or the distance for which it is to be observed.

As a result of a review of pedestrian facilities in South Australia by the Pedestrian Facilities Review Group, section 49 has not been relied upon to govern speed limits outside school since the beginning of the 1997 school year. The review group represented major stakeholders, including the Royal Automobile Association of South Australia Inc, the Local Government Association, the Institute of Municipal Engineering Australia, the Aged and Invalid Pensioners Association of South Australia, the South Australia Association of State School Organisations and the South Australian Police. It recommended that signs be erected outside schools which would clearly indicate the applicable speed limit and the times of its operation.

The new system was implemented under section 32 of the Road Traffic Act, which allows the Minister to fix a speed limit for any road or portion of a road. The Minister's delegate in the former Department of Transport (now Transport SA) notified all councils of the new signage to indicate the part-time 25 km/h speed limits in all areas between the former 'school' and 'end school limit' or 'school crossing ahead' signs. Councils were authorised to erect the new signs and to consult with relevant schools, to determine

appropriate periods during the school day when the speed limit would apply to meet the needs of children. In some cases councils identified the need for new school zones, and sought approval for them from the Minister's delegate in the department.

The new signage for 'school zones' marks a significant increase in safety for children proceeding to and from school. As I have said, the former school signs gave no indication of the speed to be observed or the actions required of drivers. Instead it was necessary to remember the legislation associated with the signs. Also, drivers were often unaware of the necessity to reduce speed until after seeing children, when it was arguably too late.

The signs now used at school zones comply with the 'Australian Standard AS 1742.10 Pedestrian Control and Protection' and ensure South Australia is consistent with the requirements of the draft Australian Road Rules.

I am aware of recent adverse publicity concerning school zones asserting that the Crown Solicitor advises that the zones are not valid. These reports are inaccurate and both underline and exacerbate the existing confusion in the community. In fact, the Crown Solicitor has confirmed that the Act allows the zones to be created by use of section 32(2), but has advised the Department of Transport, Urban Planning and the Arts that the Act does not clearly provide for the operation of speed zones to apply only at certain times of the day.

As a consequence, the 25 km/h school zones limit may apply 24 hours a day. Similar issues may exist over other temporary speed limits, such as those used at Football Park. It is the advice of the Crown Solicitor—and I will provide the shadow Minister for Transport and the Australian Democrats with a copy of this advice—that any possible ambiguity should be clarified by an appropriate amendment as herein proposed.

The proposed amendment to section 32 and the consequential amendments to section 175 ensure that the power exists to limit the operation of school zones and other speed zones to particular days and/or times and validates the speed limit that applies outside those operating times.

I am also aware that some people have claimed that those drivers who have been issued with expiation notices for speeding in school zones have somehow been unfairly treated, and have some sort of a moral right to the return of their expiation fees. The facts do not support this claim. The new signs were approved for situations in which the old signs had previously been erected, or where appropriate justification for a new zone was provided by the relevant council. The only change is that the signs give more explicit guidance to drivers about the speed limit which applies, and the hours of its operation.

Although the use of section 32 may mean that the speed limit operates at all times, in fact the police have only enforced it on school days during advertised hours. All the changes have been introduced to make it easier for drivers to understand what is expected of them, rather than harder.

The current Bill clarifies the law as it applies in line with the current improved practice. As a result of the use of section 32 to create school zones, it is necessary to repeal sections 49(1)(c) and 49(1)(d) of the Road Traffic Act—and I outlined earlier what they related to in terms of former signs. These sections are now obsolete. As the measures have already been implemented, there will be no additional cost. In the meantime, as Minister of Transport and Urban Planning I have reconstituted the Pedestrian Facilities Review Group to address school safety issues, including the standardisation of hours of operation of the 25 km/h limit at all school sites and ways and means to improve the identification of sites.

I commend the Bill to members and seek leave to include the explanation of clauses in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 32—Speed zones

Section 32 provides for the establishment of speed zones by the Minister. The clause adds a new provision making it clear that the Minister may, when fixing a speed limit, limit the operation of the speed limit to specified periods. The clause goes on to provide that the speed limit applying to the portion of road or carriageway immediately leading up to the zone will apply in the zone for periods other than those so specified, and will be taken to be indicated by signs in relation to the zone in accordance with section 32. This latter deeming provision relating to signs is necessary in view of the wording of section 50 of the principal Act which makes it an offence to drive a vehicle in a speed zone at a greater speed than the speed fixed for the zone and indicated by a sign or signs erected under the Act.

Clause 4: Amendment of s. 49—Special speed limits

Section 49 currently sets special speed limits for schools. These speed limits are now to be set exclusively by means of speed zone arrangements under section 32 of the Act. The clause removes the paragraphs dealing with school speed limits.

Clause 5: Amendment of s. 175—Evidence

The clause adds a new evidentiary provision relating to proof of the speed limits applying to speed zones.

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

DEVELOPMENT (BUILDING RULES) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a Bill for an Act to amend the Development Act 1993 and to make a related amendment to the Statutes Repeal and Amendment (Development) Act 1993. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

The Development Act 1993, which came into operation on 15 January 1994, integrates the planning and building assessment processes. A number of consents, including a provisional building rules consent, are required before the relevant authority can issue a development approval. The Building Code of Australia 1990, published by the Australian Building Codes Board, was adopted by all States and Territories as the technical regulations for buildings and is called up as part of the building rules under the Development Act.

The Australian Building Codes Board has recently published a performance based Building Code of Australia (BCA 96) which has been progressively adopted by all States and Territories, except for Northern Territory and South Australia, from 1 July 1997. The Northern Territory is committed to adoption on 1 January 1998, and the expeditious adoption of the performance Building Code by South Australia will ensure that the development industry in this State is not disadvantaged. In order to adopt BCA 96 in South Australia, it is necessary to amend the Development Act and regulations.

A performance based Building Code will increase the discretionary powers of the approval authority by allowing

a greater range of design and construction solutions which can be approved by meeting the performance requirements of the Building Code of Australia. It will enable the construction industry to be more innovative and should also lead to significant cost savings for construction, particularly in the area of fire safety engineering.

The Bill seeks to provide a procedure for granting a building rules consent within the existing framework of the Development Act and seeks to achieve a consistent and efficient system which will realise the potential of the performance based Building Code.

The Bill also provides for a council or private certifier, as the relevant authority, to seek concurrence from a Building Rules Assessment Commission, established as a statutory subcommittee of the Development Assessment Commission. The members of the Building Rules Assessment Commission will have specialist expertise to determine matters relating to the performance requirements of the Building Code of Australia. It is anticipated that where novel or complex construction is involved a developer may agree, on the advice of the approving authority, to seek concurrence from the Building Rules Assessment Commission on a technical building solution. The council or private certifier, as the relevant authority, will retain responsibility for granting or refusing an application for building rules consent.

The establishment of the Building Rules Assessment Commission is in line with other States and Territories, which have also established peer referral groups. It will encourage national consistency in the application and interpretation of BCA 96 and will also facilitate recording and exchange of information at a national level.

The Building Rules Assessment Commission will provide the building industry with expert assistance during the transition from prescribed technical requirements, in the current edition of the Building Code, to the performance requirements of the performance based Building Code.

Consequential amendments to regulations will be necessary to provide for the establishment of the Building Rules Assessment Commission as a subcommittee of the Development Assessment Commission and to provide for the recording of consequent determinations.

It is intended that the proposal will be cost-neutral to Government. Costs will be incurred for sitting fees for the Building Rules Assessment Commission to process applications and to record determinations for the national register. There will be a service fee for referring applications to the Building Rules Assessment Commission. It is anticipated that industry will benefit from cost savings through innovative design that will far outweigh the fees for their assessment.

The Bill also seeks to transfer certain provisions of section 28 of the Statutes Repeal and Amendment (Development) Act 1993 to the Development Act 1993. These provisions relate to alterations to existing buildings. They give councils and private certifiers discretionary powers to require upgrading of those buildings for safety, structural and health standards. These provisions have been slightly modified to accord with the language of the Development Act.

The purpose of the Statutes Repeal and Amendment (Development) Act 1993 was ' . . . . to make certain repeals and amendments to legislation to provide for planning and development within the State; to enact transitional provisions; and for other purposes'.

The Act was most useful to carry over transitional provisions at the time that previous Acts, such as the Building Act 1971, were repealed, and the Development Act 1993 was implemented. Much of the Act has now outlived its useful purpose, and is referred to only on rare occasions.

The provisions of subsections (3) and (4) of section 28 form part of the rules which a relevant authority under the Development Act 1993 would need to refer to on a more regular basis. The provisions work hand in hand with other provisions for development control contained in the Development Act, and therefore it is appropriate that they also be contained in the Development Act. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Amendment of s. 4—Definitions

It will be necessary to make specific reference in the Act to the "Building Code", being the 1996 Edition of the Building Code of Australia (as in force from time to time and as modified by local variations and additions but subject to the requirement that alterations will not come into effect in this jurisdiction until notified by the Minister by notice in the *Gazette*, in a manner consistent with the operation of section 108(7) of the Act). It will also be necessary to include a definition of the "Building Rules Assessment Commission", which will be a committee of the Development Assessment Commission.

Clause 4: Amendment of s. 36—Special provisions relating to assessment against the Building Rules

The provisions relating to the assessment of building work against the Building Rules need to be amended due to the introduction of BCA 96. A key element to the introduction of the new Code will be that any development that is at variance with the performance requirements of the Building Code will not be able to be granted provisional building rules consent unless the Building Rules Assessment Commission concurs in the granting of the consent. Furthermore, in a manner similar to the scheme that applies under section 35 of the Act in relation to *non-complying* development, no appeal will lie against a refusal of a concurrence by the Building Rules Assessment Commission, a refusal to give consent if the Building Rules Assessment Commission has refused its concurrence, or a condition that is expressed to apply by virtue of a variance with the performance requirements of the Building Code. The Building Rules Assessment Commission will also be available to express an opinion on whether proposed building work complies with the performance requirements of the Building Code.

The revision of section 36(2) will also result in the deletion of the reference to making a *modification* to the application of the Building Rules. Paragraphs *(a)* and *(b)* of subsection (3) must therefore be recast to reflect new terminology. New subsection (3a) will require that a relevant authority must seek and consider the advice of the Building Rules Assessment Commission before consenting to building work under subsection (3) that would be at variance with the performance requirements of the Building Code. Subsection (7) is also being recast as a consequential amendment.

Clause 5: Amendment of s. 49—Crown development

Various consequential amendments must be made to section 49 of the Act (Crown development) in view of the amendments that are being made to section 36. The new Building Rules Assessment Commission will need to be consulted before a certificate can be given under subsection (14) in respect of building work that would be at variance with the performance requirements of the Building Code. Any variance with the Building Rules must be specifically identified in the relevant certificate.

Clause 6: Insertion of s. 53A

This amendment effectively moves into the *Development Act 1993* those parts of section 28 of the *Statutes Repeal and Amendment (Development) Act 1993* that still have substantive relevance. New section 53A(1) will make it clear that a relevant authority can only require such work as is reasonably necessary to ensure that a building is safe, structurally sound and in a healthy condition.

Clause 7: Amendment of s. 86—General right to apply to Court

This amendment is consequential to the revision of section 36(2) of the Act by this measure.

Clause 8: Amendment of s. 87—Building referees

This amendment is consequential.

Clause 9: Amendment of the Statutes Repeal and Amendment (Development) Act 1993
This amendment strikes out redundant provisions from the *Statutes Repeal and Amendment (Development) Act 1993* (especially in view of new section 53A proposed to be inserted in the *Development Act 1993* by this measure).

The Hon. T.G. ROBERTS secured the adjournment of the debate.

ADDRESS IN REPLY

The Hon. R.I. LUCAS (Treasurer) brought up the following report of the committee appointed to prepare the draft Address in Reply to His Excellency the Governor's speech:

1. We, the members of the Legislative Council, thank Your Excellency for the speech with which you have been pleased to open Parliament.
2. We assure Your Excellency that we will give our best attention to all matters placed before us.
3. We earnestly join in Your Excellency's prayer for the Divine blessing on the proceedings of the session.

The Hon. J.S.L. DAWKINS: I move:

That the Address in Reply as read be adopted.

The PRESIDENT: I indicate that this is the honourable member's maiden speech and I ask all members to extend to him the usual courtesies.

The Hon. J.S.L. DAWKINS: I thank His Excellency the Governor for the speech with which he opened this Forty-Ninth Parliament. I also take the opportunity to commend the manner in which His Excellency has discharged his functions as a representative of Her Majesty, The Queen. On 11 August 1996, His Excellency came to my home town of Gawler to open the local visitor centre. As the Chairman of the Gawler Tourism and Trade Authority I was delighted to host His Excellency in one of his earliest official engagements as Governor of South Australia.

The way in which His Excellency conducted his duties and renewed a connection with Gawler that day proved to be a preview for the way in which he has gone about serving South Australia and its people in the 17 months since that time. I understand that His Excellency ventured to Gawler with his father, Mr Jim Neal (a Port Adelaide Rotarian), on the occasion of the establishment of the Rotary Club of Gawler in March 1954. I am pleased to say that the club, of which I have been a member for seven years, is still going strong and recently celebrated 2 000 meetings. Mr President, I offer my sincere congratulations to you on your election and extend best wishes for your term as President of the Legislative Council.

I am proud to say that I share with you the title of being a past Chairman of the Liberal Party's Rural Council (now the Regional and Rural Council). Your long commitment to that forum and other Party and community bodies will undoubtedly serve you well as you undertake your new duties. I also extend the best wishes and congratulations of the first member for Schubert in another place who is also a past Chairman of the Liberal Rural Council.

It is a great honour to be elected to represent the people of South Australia in this Chamber. Along with the other 21 members of this Council, I am charged with representing the whole State. However, I am proud to say that I come here with some knowledge of the circumstances of the 400 000 or so South Australians who live outside the Adelaide metropolitan area. As someone with a mixed farming background from the Lower North, I am proud to follow in this Chamber a number of distinguished representatives of that region and, indeed, of the former Midland Legislative Council District. These include the Hon. Les Hart and Mr Keith Russack (who also served in another place as the member for Goyder) and the late Hons Ross Story and Colin Rowe. It is, of course, a matter of great pride to me to follow another former Midland MLC, my late father, the Hon. Boyd Dawkins MBE, into this Chamber.

He was a proud South Australian who served in this Parliament for 20 years under both the district and proportional representation systems of election. While he is not here today, I acknowledge his role in the development of my keen interest in industry, community and public affairs and in the Liberal Party. He entered Parliament in 1962, succeeding Sir Walter Duncan who served in the Legislative Council for 44 years, including 18 as President, as you, Sir, mentioned yesterday. Interestingly, Sir Walter's term as President falls far short of that held by Sir Lancelot Stirling who occupied your place from 1901 until 1932.

On 17 July 1962 my father had the honour of seconding the motion for the adoption of the Address in Reply to the speech of the then Governor, Sir Edric Bastyan, a man for whom he had the greatest respect and who later served a period as Governor of Tasmania. In his speech, my father referred to better management of the Murray River (albeit the ill-fated Chowilla Dam proposal) and the provision of greater electricity resources (through the construction of the Torrens Island Power Station). He also referred to the relationship between the State Government and the South Australian Cooperative Bulk Handling Limited, and the work of the then Department of Mines in aiding the development of mineral resources in this State.

These and some other issues of the day to which he referred still have great relevance to the South Australia of today. One issue on which my father worked hard from his earliest days in Parliament was the proposal to allow the use of treated effluent water from Bolivar in the market gardening districts of Virginia, Two Wells and Angle Vale. After many years of frustration he was pleased to note, just prior to his death last year, that this important project was close to fruition. I recognise today the input of my mother, Constance Dawkins, in her quiet, unassuming manner within the Liberal Party and beyond, as well as the community-minded attitude of my four grandparents.

Indeed, my paternal grandfather, A.M. (Bert) Dawkins, who twice served the Advisory Board of Agriculture as Chairman, narrowly missed election as a member of the House of Assembly in the early portion of this century when each district elected four members. This may be of interest to the Hon. Mike Elliott and his colleagues who are keen to see a return to a similar system in the Lower House.

My father was one of three former State parliamentarians who have passed away since the last opening of Parliament. Mr Reg Curren was the ALP member for Chaffey from 1962 until 1968 when he was defeated by the Liberal Party's Peter Arnold. He returned to the House of Assembly in 1970 but was again defeated by Mr Arnold in 1973. I never met Mr Curren but can well remember my father working with him on issues pertaining to areas of the Riverland which they both served, as well as their time together on the Lands Settlement Committee of this Parliament.

The Hon. Jack Slater was a member of the House of Assembly from 1970 until 1989, serving terms as Minister for Water Resources and Minister for Recreation and Sport. He

is remembered by those who came into contact with him as a genial man who had the best interests of his State at heart.

At this point I would like to acknowledge a number of other former parliamentarians: the Hon. Cec Creedon, a former Mayor of Gawler and a dedicated Labor stalwart, was the most recent resident of the town in which I live to serve in this Chamber. I enjoy our conversations when we occasionally meet at community functions. In addition, I would like to mention my namesake, the Hon. John Dawkins, a former long-serving West Australian member of the House of Representatives who served in several high-ranking portfolios within the Hawke and Keating Labor Governments. John, who has returned to his South Australian roots with properties in Adelaide and the Barossa, shares two great grandparents with me, Sam and Rebecca Dawkins. We may not have much in common politically but I recognise the commitment and contribution he made to the Federal Parliament of this nation from 1974 to 1975 and 1977 to 1993.

I would also like to make mention of the service to the Parliament and the State of your predecessor, the Hon. Peter Dunn. Mr Dunn served in this place for 15 years, particularly working hard to represent his home region of Eyre Peninsula and the isolated northern communities. He assumed my father's position as a rural-based Liberal in this Chamber, and I am delighted to follow him in turn, although I do not aspire to the heights he reached as a pilot. I would also like to make mention of the service to this Chamber by Dr Bernice Pfitzner over the past seven years. I am sorry that Dr Pfitzner did not get the opportunity to continue her work on behalf of our multicultural communities and through the Parliament's Social Development Committee.

The Hon. Anne Levy served as a member of this Chamber from 1975 until the recent election, and her long period of service included three years as the first and only female President of the Legislative Council and as a Minister in the Bannon and Arnold Administrations. In addition, I acknowledge Mr Paolo Nocella who served as a representative of the Labor Party from 1995 to 1997. I wish all four former members of this Chamber well in their retirement.

I come to the Legislative Council as my father and many others have in the past as a proud South Australian who wants to see this State prosper for the generations that follow. In her maiden speech almost 15 years ago to the day, my colleague the Hon. Diana Laidlaw said:

> On occasions others in this Council have deplored the fact that politicians are probably the most mistrusted group of professionals in the community. The public's perception of us colours their regard for our political system, a system that we should be preserving and strengthening for future generations. The onus is on us to restore our credibility.

Despite the best efforts of many, the Minister's comments are as apt today as they were in 1982.

Shortly after the State election I received a note of congratulations from Mr Ross Deere, who has been my family's accountant for more than four decades. Mr Deere spoke of his trust that I would demonstrate a strength of purpose, integrity, vision, and a belief that all we have in South Australia is worth preserving and improving. In response to those worthy and challenging words, I feel that there is much in this State to be positive about. Rarely do these positives gain any significant publicity and this situation particularly relates to the attributes of rural and regional South Australia.

I am excited by the enormous mining potential that this State possesses as well as the diverse opportunities provided by aquaculture and a range of other alternative rural industries. It is important that we make use of the best that country communities have to offer, to enhance and encourage them. The situation is similar in many of our metropolitan areas where many unseen positives exist. As we enhance our State, we need a balance of industry and development with the recreation, heritage and environmental facets that are a feature of South Australia.

We have the River Murray, a vital resource which is responding to better management both here and in other States. We have a vast coastline which is unique and accessible to most members of our relatively small population. That population also features a high degree of voluntary contributions to organisations which play varying roles in our community. I have witnessed this with a range of organisations including the Country Fire Service, Rotary, and church, community and sporting organisations.

This is easily demonstrated by the recent history of the Gawler Visitor Centre, which I mentioned earlier. This centre, which promotes Gawler as the best of town and country, relies heavily on the input of a dedicated team of volunteers. As the most visited visitor centre in South Australia in 1996-97, it has a record of proven delivery of service. The authority which runs the centre also represents the tourism interests of the Northern Adelaide Development Board area and, after years of indecision about which tourism region Gawler belongs to, it has recently become associated with the successful 'Classic Country' region.

A long-term association with the *Bunyip* newspaper as a part-time journalist and columnist has allowed me to highlight the efforts of many volunteers in our society and to keep in touch with their ideals. I make no apology for defending the roles of volunteers. These days many people are retiring at a relatively young age, and we have to make the best use of their expertise and knowledge.

In 1995 I was honoured to coordinate the Australia Remembers program in the Federal electorate of Mayo. I was pleased to work with many Second World War veterans and those of later conflicts in commemorating those who served this country between 1939 and 1945. Working with a range of volunteers in Mayo and on the State Executive, it was particularly rewarding to help to recognise the war efforts of many who contributed on the home front and whose contribution had not previously been acknowledged widely.

I am grateful to the many organisations and individuals with which I have had some association and the opportunity to gain a wide range of life's experiences. I am grateful to Mr Neil Andrew, Federal member for Wakefield and Chief Government Whip, the Hon. Alexander Downer, Federal member for Mayo and Minister for Foreign Affairs, and Senator Nick Minchin, Special Minister of State, for the opportunity to serve in their electorate offices during the last 12 years. The support and encouragement that I have received from those with whom I have worked in those offices has been an additional stimulus to me.

I have appreciated the opportunity provided by the Liberal Party to work closely with candidates such as Barry Wakelin, Federal member for Grey, Trish Draper, Federal member for Makin and, more recently, Peter Panagaris, who has been the Party's candidate in the State seat of Playford on three consecutive occasions. I have also learned much from the large number of Liberals with whom I have worked in the Wakefield and Light electorate committees, the Mid North

country regional convention, the Regional and Rural Council and the Party's State Executive, as well as other Liberal forums here and interstate.

My gratitude also goes to the Hon. Roger Goldsworthy, a former Deputy Premier of this State and member for Kavel for 22 years, who has provided guidance and encouragement to me over a long period. I also pay tribute to the encouragement and unquestioned support of my family, without which I would not be standing here today. To my wife Helena, daughter Leah and son Thomas, as well as my mother, my mother-in-law Eleanor and late father-in-law Mick, I owe a great debt. I trust that my efforts will not disappoint them.

I look forward to serving the people of South Australia through this Parliament. I am proud to have been associated with other similarly longstanding institutions of this State, such as the Uniting Church at Gawler River, which was founded in 1854, and the *Bunyip*, which has been run by the same family since 1863.

The Legislative Council is a House of Review which can frustrate Government legislation. However, I believe that our form of democracy is served better by a bicameral system which can prevent situations such as we have seen in Queensland and New Zealand with one-House Parliaments allowing Governments to perpetuate excesses. Democracy itself is something that we should never take for granted. In 1993 I was privileged to represent my Party on a four-member Australian Political Exchange Council delegation to the People's Republic of China. During this visit I spoke to many people, mostly well educated, who all had no concept of democracy or the right to vote at any level.

We must do all we can to cherish the stable democracy that exists throughout our nation. As I seek to serve the people of this State to the best of my ability, I look forward to learning from the experience of many of my colleagues. I commend the motion to the Council.

The Hon. CAROLINE SCHAEFER: I second the motion for the adoption of the Address in Reply. In doing so, I congratulate the Governor on his speech and on the enthusiasm which he and Lady Neal bring to their office. I also congratulate you, Sir, on your unanimous election to the position of President. Yesterday many people mentioned the popularity of your appointment and the high regard that all members of this place have for you. I am sure that you will carry out your new duties with the courage and complete integrity that we have come to know you by.

I also welcome my friend and colleague the Hon. John Dawkins. As he mentioned, the honourable member is a former Chairman of the Liberal Party's Rural Council and a former electorate officer for several Federal MPs. I am sure that his contribution will be of great value to all South Australians but particularly to those who live in rural and regional South Australia, and I congratulate him on his excellent maiden speech. I also welcome the Hon. Carmel Zollo and the Hon. Nick Xenophon to the Legislative Council and I also welcome the recycled member, the Hon. Ian Gilfillan.

I have been a member for just four years but in that time I have learned that, although debate is spirited, even heated from time to time, there is little or no animosity outside the Chamber and, as such, I wish all new members a fruitful term in the Upper House.

It was exciting for me to listen to the Governor's speech yesterday and to reflect on the fact that, for the first time in many years, the Liberal Party is in Government for a second term.

Certainly, the election result was not what we might have hoped for, but the Labor Party has very little to gloat about, either. While the Democrats almost doubled their vote, it still needs to be remembered that it only has about 16 per cent of the total. Although we all are very aware of the vagaries of politics, it is always sad to see our colleagues lose their seats. I, too, would like to acknowledge the valuable work of Dr Bernice Pfitzner, particularly within the Asian community, and I wish her and Paolo Nocella well in their new pursuits.

In listening to the Governor's speech there was a key theme: the rejuvenation of South Australia. The Governor said:

> It is a recovery and growth program that must, and will, be achieved hand in hand with the compassion of social responsibility.

I look forward to serving in a Government which has that as its aim. In the first four years the Liberal Government has shown outstanding financial management skills. It has reduced the underlying deficit from approximately $350 million per annum to a small surplus and it has reduced the core debt by over $2 billion. We are well on the way to clawing back our triple A overseas credit rating. At the same time, the Liberal Government has carried out a massive capital works program, repairing and replacing much needed and neglected infrastructure. Major works which have been both highly visible and highly beneficial include the South Eastern Freeway tunnel, the Southern Expressway and the netball and athletics stadiums. Perhaps two of the most important achievements in infrastructure involve the securing of the extension of the Adelaide Airport runway and the commitment to the Alice Springs-Darwin railway. I was delighted to learn that the runway extensions are well ahead of schedule and that the Morgan-Burra Road sealing, for which country people have lobbied for so long—at least 30 years—is not only completed but was completed several months ahead of schedule and, I believe, also slightly under budget. This provides, at last, a valuable cross-country link between Perth and Sydney.

Yet, in spite of all this progress, we continue to hear constant carping and whingeing, a continual talking down not only of the Government but of the State itself. In spite of his assertions that he wants a cooperative and joint approach, Mike Rann is the biggest carper and whinger of them all. When did any of us last hear a positive remark from his office. The old saying, 'If you sling enough mud some of it will stick,' is becoming quite true in this State. Between the press and the Opposition it would be possible to believe that nothing good is going on here. For a start, there was that article by Rex Jory which bemoaned the fact that there are no cranes on the Adelaide skyline and which asked, 'Where are all the cranes?' I wanted to tell him to go to Roxby Downs, where the skyline is full of cranes and where the massive $800 million development is, again, ahead of schedule. But because it is more than five minutes from the CBD, no-one seems to know it is happening.

I then went back through a few more papers since 11 October to see whether there was some good news and something going on in this State. The news, believe me, is good. For a start, in the *Advertiser* of 11 October there was the announcement that Australian wine exports have set a new record of $87 million. Of course, the majority of that wine comes from our State. So great is the demand for our excellent product that it is forecast to reach $800 million,

with the only limiting factor being that we may not be able to produce enough quickly enough to fill orders. The other exciting thing about this is that, unlike many rural pursuits, wine grape growing and wine making is a relatively labour-intensive industry.

Then there was the magnificent Feast of the Senses, which put Adelaide where it deserves to be, that is, the capital city of the gourmet State. We also had the wonderful Opera in the Outback, which is unique anywhere in the world. In fact, I heard interviewed on radio one of the many professionals who visited from Europe for that event. When asked whether they would try such an event over there he replied that they had neither the courage nor the venue to attempt it. At about the time of the Feast of the Senses we also had—though certainly not worthy of the front page—the announcement of a plan for a $16 million residential block on a derelict vacant block in the city's East End.

The *Advertiser* predicted that vegetable production in Virginia would treble in the next few years due to the ability to use treated sewage water. A month later it was announced that an Israeli-Italian-Australian consortium will invest $10 million in the development of a $50 million per annum olive oil industry in this State. We have also recently heard of the revamped almond industry, producing 5 500 tonnes of almonds per year worth $40 million, and already it employs 25 people at Loxton. These figures are expected to double within the next couple of years. Again, these are innovative industries which will be based in regional South Australia and which are largely due to the encouragement given to and emphasis placed on value-adding to primary produce. These have been deliberate initiatives of the Minister (Rob Kerin), and in the medium to long term will do far more for regional development than any bogus job creation scheme.

While we have seen these good news predictions, they are often buried in the masses of doomsday forecasts, and our economic turnaround sometimes goes unnoticed. In the last few weeks the signs have been there. We have turned the corner and we are now moving forward. I refer to the recent small business survey by Telstra *Yellow Pages* which found that South Australia is the growth State of Australia. The latest retail survey showed a 9 per cent growth in the last quarter, 3 per cent ahead of other Australian States. In the last month there was between 95 and 83 per cent occupancy of all city hotels and motels. Motor vehicle sales, both new and used, are the best they have been for 10 years. Bankruptcy figures in this State are the lowest for a generation, and there is an across-the-board property upswing.

As the *Advertiser* Editorial of 6 November stated, 'Adelaide is on the move'. It should have read, 'South Australia is on the move'. I was pleased to note also the Governor's mention that stamp duty exemptions will be extended for intergenerational transfer of rural properties. He also said that stamp duty exemptions will be introduced in country areas where banks are closing and one bank remains so that people can patronise that bank and keep that business within the community. While this is a small move economically, it will mean a great deal to country people to realise that the Government does recognise that they want very much to keep their communities intact where possible.

I have also been heartened by the increase in technology and technology funding by the Federal Government, which is gradually allowing country people access to communications almost to the standard of their city cousins. Of course, this will have great implications not only in the management of properties but also in terms of education.

In closing, I want to say that as members of Parliament it is easy to dwell on the negatives when talking about the economics of this State and the people of this State. Members will know that in most weeks I fly across the two gulfs in a small aircraft. It is quite stunning to look to the west to see our clean landscape, our beautiful sunsets, our clean oceans, our clean waterways and to then fly across to Adelaide, particularly as it is at the moment, bathed in green with the purple of the jacarandas. I can walk the streets of Adelaide in comparative safety. I can drive to work within 10 minutes or half an hour from anywhere in Adelaide. I can buy world-class food and wine at probably the cheapest price anywhere in the world. We have a great public transport system; we have great people; we have a great community. If we want anything to be bipartisan, let us go out and sell what we have: a lovely State. We will never be Sydney. I do not want to live in Sydney: I want to live in South Australia, and I want to be proud of it. I take pleasure in seconding the motion.

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

STATUTES AMENDMENT (MINISTERS OF THE CROWN) BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 19.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition opposes the second reading of this Bill. We believe that it is a move to make jobs for the boys and girls—and not too many girls at that. The Attorney, in his second reading explanation, stated:

> The changes to the ministerial structure are bold and innovative. They are intended to create opportunities for better whole-of-Government integration and a more effective and unified service delivery. The appointment of 10 Cabinet Ministers, five Ministers and one parliamentary secretary instead of the traditional 13 Cabinet Ministers will be at no additional cost to the taxpayer.

That simply is not true. Let us look at the detail of how this will add up. Mr Olsen's junior Ministers will each get a $32 000 a year pay rise and the parliamentary secretary will get a 20 per cent pay increase. Ministers are paid 75 per cent above a backbencher's salary—at current rates an extra $59 892. Across 13 Ministers, that is $778 596. The junior Ministers will receive an extra 41 per cent of salary on top of their backbencher's salary—that is $32 740; and the 20 per cent increase for the parliamentary secretary will be an additional $15 971. I repeat that extra salary for the five juniors and one parliamentary secretary will add up to $778 596.

The Bill contains no detail as to how many officers, extra staff, cars and extra lurks and perks they will have, or whether they will be entitled to travel expenses and what else they will have. Will they have the trappings of a Minister? In relation to the parliamentary secretary's position, in which I understand the Hon. Julian Stefani is very interested, will that member be able to answer questions in the Parliament—the Hon. Mr Stefani has refused previously to do so—and will the junior Ministers be able to answer questions in the Parliament? These are some issues the Minister might like to address.

It is interesting to look in detail at the number of Ministers of the Crown in our State's history. The shadow Minister in another place is a great one for looking at the history of such issues, and he has kindly given me some background on this. In 1856, when we had self-government, there were five

Ministers; in 1873 it increased to six; right up until 1940 there were six Ministers, with an increasing population; in 1965 there were nine; in 1970 there were 10; in 1973 there were 11; and 1975 there were 12; and since 1978 there have been 13 until the present day; and in 1997—

The Hon. K.T. Griffin: There was a big increase by the Labor Administration to 13 Ministers.

The Hon. CAROLYN PICKLES: That's right. In 1997 we will now have 15 Ministers plus a paid parliamentary secretary. At the same time the Government is outsourcing or privatising water, sewerage, buses, computers and, soon, electricity. Another issue that does vex the Opposition is that junior Ministers will not be required to take the Oath of Fidelity, which is the Executive Council oath, so Cabinet confidentiality and solidarity now rests on a private agreement with the Premier. We do not believe that that is sufficient protection for Cabinet secrets. Perhaps the Minister might like to exercise his mind on that issue.

In relation to the appointment of parliamentary secretaries, this is obviously something that has vexed the Auditor-General because, in his report tabled in Parliament yesterday, in Part A.4 Audit Overview, he addresses the issue of appointing members as parliamentary secretaries. He states that the situation in South Australia is as follows:

> The South Australian parliamentary secretaries appointed during the term of the current Government have been appointed by the Governor in Council under the Constitution Act 1934. These appointments are made in accordance with section 68 of this Act. I am advised that it is open to doubt whether section 68 is an appropriate basis for these appointments because the role of parliamentary secretary conferred at the discretion of the Premier is not an appointment to 'a public office'.

He continues:

> Further, if South Australian parliamentary secretaries are members of the Executive there may be some question about the constitutional validity of their appointment in circumstances where their number, in addition to the number of Ministers, exceeds 13. This issue arises because section 65 of the Constitution Act 1934 limits the number of Ministers of the Crown to 13 [although that will be amended].

He then talks about the problems where a parliamentary secretary might serve on committees and highlights the case of Joan Hall. He does not name her, but we all know that the person referred to on the report A.4, page 7, in the case of the conflict, does refer to Joan Hall, who was, at that time, I understand, a member of the Public Works Committee, and he highlights some of the difficulties while she was also a parliamentary secretary. There are all these issues which I do not believe are adequately addressed in the legislation. The Auditor-General further makes the observation:

> Having regard to the need to avoid conflict of interests arising for members of Parliament in relation to the expenditure and scrutiny of expenditure [I am concerned] that Parliament give consideration to regularising the appointment and functions of parliamentary secretaries through the passage of legislation.

I would like the Attorney to reply to that. As I understand it the numbers are clear: the Australian Democrats will support the second reading of this Bill so I presume the Attorney will give a second reading reply or answer in Committee whether he feels that the concerns of the Auditor-General in relation to the appointment of a parliamentary secretary are being properly addressed by the passage of this legislation and, if so, how?

We do not feel that it is necessary to have this somewhat unwieldy structure. We do not believe that it will streamline the former structure. It is obvious that the departments are still in the process of working out who is who in the zoo, who is in charge, who is the CEO and who has responsibility for what; and I understand that a number of public servants are leaving because they are not satisfied with the way the issue has been dealt with by the Government.

As for the statement that this will save money, I think that that is absolutely untrue. I would ask the Attorney to detail precisely how this will save the State money. The Opposition has worked out that the new system will save $5, but that does not take into account the lurks and perks of office, which I am sure these junior Ministers will expect—the extra costs of telephone calls, offices, staff and cars. Will they be allowed to have access to overseas ministerial travel? That is another issue that we would like addressed.

The Opposition does not believe that this is a structure that will best serve the South Australian public. It will not make the issue of dealing with Ministers any more efficient.
It will not make Government any more efficient. It will simply be another expense item. It is simply another means of the Premier in his somewhat shaky position (which probably will not last much longer) trying to find extra jobs for the boys and the girls to keep them all happy so that they will not vote him out of office. We oppose the second reading.

The Hon. M.J. ELLIOTT: I support the second reading. I spoke with the Premier not long after the recent election and he raised with me the likely Democrat response to a change in the structure of the ministry. In particular he floated the possibility of there being 10 Cabinet Ministers and five assisting or junior Ministers, whatever you want to call them. At the time I said that I had no particular view on the structure of Cabinet, but that I would be gravely concerned if there were any significant cost implications. I indicated at that stage that I would hope that the cost of the Ministers' salaries, for instance, would not lead to any blow-out. The Premier gave an undertaking—and it is shown within this Bill—that the salary bill of the total ministry would be no greater than it is at present. The salaries of the three reduced Cabinet positions were apportioned between the five junior Ministers.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: Wait just a second; I will get to that. At that meeting the Premier did not discuss with me the position of Parliamentary Secretary. I think that arose in a later telephone conversation. I did not at any stage express a view about the Parliamentary Secretary. I must say that it looks terribly cynical when they have stuck to the word so much that the salary of the Minister of the Crown who is not a member of Executive Council is 41 per cent. When one looks at salaries as a whole one sees that they tend to end with a five or a zero, but this salary package ends with a one. It means that the last dollar that was left to be squeezed out was squeezed out to be apportioned between the five junior Ministers.

I am told that the difference between what the salaries were previously and what they have ended up being is $5. I am rather surprised it is not 41.001 or something per cent to ensure that last $5 was also squeezed out. For the record, if people want to understand why the figure of 41 came out, it was extracting almost all but the last $5 out of the agreement. I did not say it had to be precise but I did not realise how close they were going to get to precision.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: Yes. The accountant has gone, yes. I said at that stage that the Democrats did not have

any particular concern. I also indicated that, if there was more to it than met the eye, I would reserve my right to respond differently. Other than the Labor Party's comment—which probably has a fair bit of truth in it—that internal Party politics has had something to do with this legislation, I do not think Labor members have said anything so far to demonstrate that there is anything more to this Bill. The one way to buy peace is to try to give as many people as possible a ministry and the self-importance that might be attached thereto. I am not saying that all Ministers feel self-important, but there is no doubt that some people in that position manage to get that certain inner glow as a consequence.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: It depends on how assiduous they are. The honourable member at least has a reputation of being assiduous, as do a couple of the other Ministers. Some have quite appalling reputations—and I do not have to name names, as most people in the Liberal Party as well as the Democrats and the Labor Party are aware who they are. It would be true to say that there are a couple of things that work in this matter. There may be some truth in the suggestion that a smaller inner Cabinet will make the decision-making work a little more smoothly in some ways and that certainly when you bring together some departments the responsibility for a single ministry might be great. One example is the Government's bringing together education and further education, which makes a lot of sense. It certainly brings together a very large ministerial responsibility.

A great deal was to be gained by bringing together those two ministries. First, we have students not only making transitions between schools and TAFE but also sometimes getting involved in courses which overlap both. Also, there is the potential for education as an export, both at school and tertiary level. A whole range of reasons exist for wanting to bring those two areas together, but it does create a very large responsibility.

The same applies to bringing together health and family and community services. I remember under Labor one Minister, John Cornwall, held them together, but again it is an extremely large ministry and I can see some valid argument for arguing for a junior Minister within that portfolio. The Government can construct some valid arguments for doing so.

I suspect that sharing the prizes among the smaller back bench makes it much easier to quell some of the factional difficulties that also were occurring. In fact, not too many ended up missing out on a prize. I am prepared to accept that the Government should have some level of discretion in terms of the way in which it chooses to construct its ministry.

I recall that not long after the Government announced that it was to do this there were some attempts to link it to some changes that were happening within the public sector. The restructuring of the public sector, or at least the decisions to fully merge departments or to shuffle things between Ministers, could have happened without a change in the ministry. For instance, in relation to the Hon. Mr Armitage in the other place, the Government easily could have set him up with exactly the same responsibilities as he has now without a change in the number of Ministers. Many of its rearrangements were not dependent upon the change in the ministry from 13 to 15 members, including a Cabinet of 10.

So, whilst some chaos may be created in some of the rearrangements that the Government is carrying out, it easily could have occurred without this legislation. I do not think that the two issues are directly related. Restructuring of departments can happen at any time. I have already noted that on a previous occasion health and family and community services were under the one Minister; they were separated and they have now been brought back together again. As the Hon. Paul Holloway noted by way of interjection, that was true in relation to education and further education. It is not just the bringing together or the splitting up of portfolios in itself that is causing the chaos: it is what else the Government is doing within the structures. That issue and the issues covered by this Bill are not related. I suspect that a great deal of Party politics is involved in the Labor Party response to this legislation.

In discussions with the Premier in relation to costs, I also talked not just about the salary implications but about other resource implications, and the Premier gave an undertaking—publicly and also in writing—that the assistant Ministers would not be getting the white cars, chauffeurs and some of those other self-important things that perhaps some people might pick up. In fact, I think that Mr Olsen probably thought of it even before I suggested it. I would hate to think that the Hon. Mr Lawson might think it was all my fault that he missed out on his white car and his chauffeur.

The Hon. Diana Laidlaw: I am sure he does.

The Hon. M.J. ELLIOTT: I hope that the Premier didn't tell him that. After a deal of sensible discussion, the Premier decided that that was a good idea and, in fact, wrote to me in such terms. Also, the fact that the junior Ministers are collocated with the Cabinet Minister to whom they are attached shows there is theoretically some sharing of resources, so that a junior Minister should not require the same resource base as an ordinary Minister and, in fact, should be sharing a good deal of the resources of his or her senior partner. I indicate again that the Democrats support the second reading of this Bill.

Opposition members have failed to raise during their second reading contribution any issue that would cause me to believe that there was more to the Bill than the Government had claimed, other than perhaps, as I have already conceded, that there is probably a small amount of politics in terms of what the Premier is trying to achieve. But I think that is also true of the Labor Party's opposition.

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

SESSIONAL COMMITTEES

The House of Assembly notified its appointment of sessional committees.

JOINT PARLIAMENTARY SERVICE COMMITTEE

The House of Assembly notified its appointments to the committee.

STANDING COMMITTEES

The House of Assembly notified its appointments to standing committees.

LAND TAX (LAND HELD ON TRUST) AMENDMENT BILL

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

The Hon. K.T. GRIFFIN (Minister for Justice): 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 seeks to amend the provisions of the *Land Tax Act 1936* to counter a very recently devised tax minimisation scheme whereby a single certificate of title has been artificially split into a number of different ownerships by the use of trusts thereby reducing the overall aggregate value of the land for land tax purposes.

The assessment of land tax for a financial year is calculated by reference to the site value of land in force under the *Valuation of Land Act 1971* as at midnight on 30 June immediately preceding the commencement of that financial year. A rate based on a sliding scale is applied to that value. The greater the value of the land, the greater the amount of land tax which is payable.

This principle of value extends to multiple parcels of land with the same ownership. In these cases, the value of all the parcels of land is aggregated.

Until now it had been accepted practice that a parcel of land was identified by the certificate of title for that land.

The situation which came to light recently involved a request for a reassessment of land tax on a single parcel of land owned by a single entity. The basis for the request was that the subject parcel of land comprised five separate ownerships by reason of separate trusts, with each portion beneficially owned by different persons under the trusts.

The initial assessment over the single parcel of land was made on the basis of a longstanding interpretation and also advice received from the Valuer-General's office, to the effect that it was not possible to attribute a value to each of the parcels of land formed as a result of a proposed future subdivision of land.

The Crown Solicitor's advice was sought as to the validity or otherwise of the use of 'potential' rather than actual land boundaries (as represented by the certificate of title) for the purposes of establishing the boundaries of land that are the property of a trust.

The Crown Solicitor advised that as 'land' for the purposes of the *Land Tax Act 1936* is not currently defined it was not possible to restrict land tax assessments only to land which is capable of having a site value by reference to an existing certificate of title.

Consequentially, in light of this advice, a land tax minimisation mechanism arises, whereby relief from the land tax aggregation provisions can be realised for land that is the property of trusts, while avoiding the costs associated with a normal subdivision of land.

If this anomaly is not corrected, apart from the revenue loss, the system of assessing land tax would be significantly complicated as a system would need to be established outside of the existing land tenure system to identify trust property held within existing certificates of title and defined by potential rather than actual boundaries as has historically been the case.

The proposed amendment will define 'land' for the purpose of ensuring that the property of a trust scheme that constitutes land, will be subject to aggregation and is assessed in fee simple.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 13—Cases of multiple ownership and aggregation of value

Section 13 of the Act provides for cases of multiple ownership and the aggregation of values. The aggregation principle does not apply in certain cases involving land held on trust. The amendment will provide that this qualification to the aggregation principle does not apply if the relevant pieces of land are two or more portions of land comprising the whole or a part of the one certificate of title being held on trust for two or more beneficiaries, and will expressly allow the Commissioner to treat all the land comprising a certificate of title in such a case as the one piece of land.

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

GAS PIPELINES ACCESS (SOUTH AUSTRALIA) BILL

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

The Hon. K.T. GRIFFIN (Minister for Justice): 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 the *Gas Pipelines Access (South Australia) Bill* and the associated *Gas (Miscellaneous) Amendment Bill* is to provide a legislative framework for third party access to natural gas pipelines in South Australia, and in so doing provide the nationally consistent approach to be adopted in Australia. These principles were initially agreed at the Council of Australian Government meeting in Hobart on 25 February 1994, and are reflected in the Natural Gas Pipelines Access Agreement signed at the Council of Australian Government meeting on 7 November 1997. This agreement also makes clear jurisdictions' commitments in relation to franchising and licensing, and it outlines the transitional and administrative arrangements for the national access regime.

The Council of Australian Government gas reform senior officials group, the Gas Reform Implementation Group has developed a national regulatory framework to govern third party access to natural gas pipeline systems, in accordance with the provisions of Part IIIA of the *Trade Practices Act* and the Competition Principles Agreement.

The Gas Reform Implementation Group is made up of representatives of all State and Territory governments, the Commonwealth, the Australian Gas Association, the Australian Petroleum Production and Exploration Association, the Australian Pipeline Industry Association, and the Energy Users Group of the Business Council of Australia. The Group has regularly consulted with the National Competition Council and the Australian Competition and Consumer Commission.

The national access regime has five primary objectives:

- to provide an open and transparent process to facilitate third party access to natural gas pipelines in order to reduce uncertainty for market participants, which is consistent with, but which will reduce much of the uncertainty associated with the largely untested provisions of Part IIIA of the *Trade Practices Act* that currently may be applied to market participants;
- to facilitate the efficient development and operation of a national natural gas market and to safeguard against abuse of monopoly power;
- to promote a competitive market for gas, in which customers are able to choose the supplier (producer, retailer and trader) they want to trade with;
- to provide a right of access to transmission and distribution networks on fair and reasonable terms and conditions, with a right for all people and parties to a binding dispute-resolution mechanism; and
- to encourage the development of an integrated pipeline network.

When each jurisdiction has passed application legislation, it will submit to the National Competition Council a State or Territory-based access regime (applying the Gas Pipelines Access Law and the national access Code) for assessment for certification as an 'effective' access regime under Part IIIA of the *Trade Practices Act*. Once a regime is certified as an 'effective' access regime, third party access to the relevant transmission and distribution pipelines will be governed by the national access Code, and the pipelines will be protected from 'declaration' under Part IIIA of the *Trade Practices Act*.

Each jurisdiction has signed an intergovernmental agreement setting out jurisdictions' obligations in relation to giving legislative effect to the Code within a specific time frame, and other actions to implement and maintain the integrity of the Code. For South Australia this deadline is 31 December 1997. A number of parts of the agreement will be implemented by the *Gas (Miscellaneous) Amendment Bill*, as these aspects pertain to licensing which is provided for under the *Gas Act 1997*.

Each jurisdiction will pass legislation to give effect to the national access Code, in particular to make legally binding the obligations placed by the Code on pipeline operators and users. The

legislation will also place obligations on producers that are necessary to enable users to realise the benefits of third party access. Through legislation, the Code will apply to many of the existing natural gas transmission and distribution pipelines, and will apply to new pipelines that satisfy the Code's criteria.

The national access Code contains principles which are to be uniformly applied in regulating third party access to natural gas transmission and distribution pipelines throughout Australia. It is designed to provide a degree of certainty as to the terms and conditions of access to the services of specific gas infrastructure facilities, but to preserve the role of commercial negotiation. A schedule to the Code details the transmission and distribution pipelines that will be 'covered' under the provisions of the Code when it is given legal effect.

The approach to giving legal effect to the national access Code is similar to that used for the national electricity Code—an 'application of laws' approach. South Australia is the 'lead' legislator for the Gas Pipelines Access Law, which is a schedule to the South Australian enabling legislation. Other jurisdictions (except Western Australia) will apply the South Australian law in their jurisdiction. Jurisdictions will draft consequential amendments to accompany their application legislation and will make them available to the other jurisdictions which are parties to the intergovernmental agreement. This approach is intended to maintain, as far as possible, the uniformity and integrity of the national access regime across all jurisdictions.

The Code will be a schedule to the Act and will have its own procedures for change. It is proposed that changes will be required to be agreed by Ministers, but will not be disallowable by Parliament. These arrangements are designed to ensure that the Code is identical in all jurisdictions, and that it will be amenable to relatively simple and rapid amendment, through an administrative rather than a legislative process. Amendments to the Gas Pipelines Access Law as set out in Schedule 1 will be made by the South Australian Parliament once the responsible Ministers from each jurisdiction have agreed to the amendments through the National Gas Pipelines Advisory Committee.

I commend the Bill to honourable members.

Explanation of Clauses

Part 1—Preliminary

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

The definitions included for the purposes of the measure distinguish between the Gas Pipelines Access Law standing alone as a law to be applied in the jurisdictions of the scheme participants and the Gas Pipelines Access (South Australia) Law being the Law as it applies in this State.

The *Third party Access Code for Natural Gas Pipeline Systems* is included as part of the Law and is set out in Schedule 2 to the measure.

The clause provides that definitions included in the Law as set out in Schedule 1 also apply for the purposes of the Act.

Clause 4: Crown to be bound

This clause provides that the legislation binds the Crown.

Clause 5: Application to coastal waters

This clause applies the legislation to the coastal waters of the State.

Clause 6: Extra-territorial operation

This clause provides for the extra-territorial operation of the legislation.

Part 2—Gas Pipelines (South Australia) Law and Gas Pipelines (South Australia) Regulations

Clause 7: Application in South Australia of the Gas Pipelines Access Law

This clause applies the Gas Pipelines Access Law set out in Schedule 1 as a law of South Australia. The clause also provides that the Law as so applying may be referred as the *Gas Pipelines Access (South Australia) Law*.

Clause 8: Application of regulations under Gas Pipelines Access Law

This clause provides that the regulations in force under Part 3 apply as regulations in force for the purposes of the *Gas Pipelines Access (South Australia) Law* and the *Gas Pipelines (South Australia) Regulations*.

Clause 9: Interpretation of some expressions in the Gas Pipelines Access (South Australia) Law and Gas Pipelines Access (South Australia) Regulations

This clause contains a number of definitions for the purposes of the *Gas Pipelines Access (South Australia) Law* and the *Gas Pipelines (South Australia) Regulations*.

Part 3—Power to make regulations for the Gas Pipelines Access Law

Clause 10: General regulation-making power for Gas Pipelines Access Law

This clause enables the Governor to make regulations to give effect to the Gas Pipelines Access Law on the unanimous recommendation of the Ministers of the scheme participants. In view of the interstate application of laws scheme for this legislation, Parliamentary disallowance of the regulations is excluded.

Clause 11: Civil penalty provisions of the Gas Pipelines Access Law

This clause deals with civil penalties for breaches of the Gas Pipelines Access Law. Under the clause regulations may prescribe regulatory or conduct provisions of the Law as civil penalty provisions with a civil penalty not exceeding $100 000.

Clause 12: Specific regulation-making powers

This clause specifies as subject matters for the regulations matters related to the definition of pipeline and arrangements for making the Code publicly available.

Part 4—National Administration and Enforcement

Division 1—Conferral of functions and powers

Clause 13: Conferral of functions on Commonwealth Minister and Commonwealth bodies

Functions are conferred on the Commonwealth Minister, the ACCC, the NCC and the Australian Competition Tribunal for the purposes of the Law.

Clause 14: Conferral of power on Commonwealth Minister and Commonwealth bodies to do acts in this State

Powers to act in this State are conferred on the Commonwealth Minister, the ACCC, the NCC and the Australian Competition Tribunal in relation to functions conferred on them by a corresponding law of another scheme participant.

Clause 15: Conferral of power on Ministers, Regulators and appeal bodies of other scheme participants

Powers to act in this State are conferred on the local Minister, local Regulator and local appeals body of another scheme participant in relation to functions conferred on them by a corresponding law of another scheme participant.

Clause 16: Conferral of functions on Code Registrar

The Code Registrar (established under the South Australian provisions) is to have the functions conferred on the Code Registrar by the Law or the National Gas Agreement or by unanimous resolution of the relevant Ministers of the scheme participants.

Clause 17: Functions and powers conferred on South Australian Minister, Regulator and appeals body

This clause provides for acceptance of a conferral of functions or powers on a South Australian entity by the corresponding legislation of another scheme participant.

Division 2—Federal Court

Clause 18: Jurisdiction of Federal Court

Criminal and civil jurisdiction necessary for the purposes of the Law is conferred on the Federal Court.

Clause 19: Conferral of jurisdiction on Federal Court not to affect cross-vesting

The cross-vesting legislation is not to be affected.

Division 3—Administrative decisions

Clause 20: Application of Commonwealth AD(JR) Act

This clause applies the Commonwealth *Administrative Decisions (Judicial Review) Act* as a law of this State in relation to a decisions of the relevant Commonwealth or South Australian bodies made under the *Gas Pipelines Access (South Australia) Law*.

Clause 21: Application of Commonwealth AD(JR) Act in relation to other scheme participants

This clause applies the Commonwealth *Administrative Decisions (Judicial Review) Act* as a law of this State in relation to a decisions of the relevant Commonwealth or South Australian bodies made under the corresponding legislation of another scheme participant.

Part 5—General

Clause 22: Exemption from taxes

Certain service providers may be required to reorganise their businesses to comply with the Law. Stamp duty and other taxes are not to be payable if a transfer of assets or liabilities is, in the opinion of the Minister and the Treasurer, required as part of that process.

Clause 23: Actions in relation to cross-boundary pipelines

Where a pipeline crosses State borders, action taken in one of the jurisdictions under the Law applicable in that jurisdiction is to be

regarded as also having been taken under the Law applicable in the other jurisdiction.

Clause 224: Subordinate Legislation Act 1978

This clause makes it clear that, in view of the interstate application of laws scheme for this legislation, the *Subordinate Legislation Act* is not to apply to the Code.

Part 6—Local Administration and Enforcement

Division 1—Code Registrar

Clause 25: Code Registrar

This clause establishes the office of Code Registrar as a public service office. The Code Registrar may be removed from office by agreement of two-thirds of the Ministers of the scheme participants.

Clause 26: Delegation

This clause enables delegation by the Code Registrar.

Clause 27: Annual report

The Code Registrar is required to produce an annual report which is to be circulated to the scheme participants and tabled in the South Australian Parliament.

Clause 28: Immunity

This clause provides the Code Registrar and any delegate with protection against personal liability for acts or omissions in good faith.

Division 2—Local Regulator

Clause 29: South Australian Independent Pricing and Access Regulator

This clause establishes the office of the Regulator. The Regulator is to be a person appointed by the Governor and is not a public servant.

Clause 30: Functions and powers

Functions may be conferred on the Regulator under the Law or the intergovernmental agreement.

The Regulator is required to make appropriate use of the expertise of the Technical Regulator under the *Gas Act 1997*.

Clause 31: Independence of Regulator

The Regulator is to be independent of direction or control by the Crown.

Clause 32: Term of office etc

This clause sets out the terms and conditions of the office of Regulator.

Clause 33: Delegation

This clause enables delegation by the Regulator.

Clause 34: Conflict of interest

The Regulator is required to inform the Minister of interests that may conflict with the Regulator's duties. The Minister may direct the Regulator to resolve the conflict in relation to a particular matter or, if the conflict is not resolved to the Minister's satisfaction, disqualify the Regulator from acting in relation to the matter.

Clause 35: Acting Regulator

This clause provides for the appointment of an acting Regulator.

Clause 36: Staff

This clause provides for the assignment of public servants to assist the Regulator and allows the Regulator to appoint his or her own staff.

Clause 37: Money required for purposes of Division

This clause states that the money required for the purposes of this Division is to be paid out of money appropriated by Parliament for the purpose.

Clause 38: Expenditure

The Minister is to fix an expenditure limit for the Regulator and to determine the purposes (other than staff purposes) for which money may be spent by the Regulator.

Clause 39: Financial management

The Regulator is required to keep proper accounting records and to have them audited by the Auditor-General at least once in each year.

Clause 40: Annual report

The Minister is to lay the Regulator's annual report before Parliament.

Clause 41: Immunity

This clause provides the Regulator with protection against personal liability for acts or omissions in good faith.

Division 3—Appeals body

Clause 42: South Australian Gas Review Board

This clause establishes a local appeals body for the purposes of the legislation. The Board is to be constituted from time to time as the need arises. It is to be constituted of a legal practitioner selected by the Attorney-General from a panel of legal practitioners and two experts chosen by the legal practitioners from a panel of experts.

Clause 43: Panels

The panels are to be established by the Governor.

Clause 44: Principles governing hearings

Questions of law are to be determined by the legal practitioner and other questions by unanimous or majority decision of the members of the Board. The Board is to inform itself as it sees fit. The Board will usually proceed by way of fresh hearing. However, the Law places limitations on the procedure in relation to a review of a decision of the Regulator to reject a service provider's proposed access arrangement and to draft and approve one of his or her own.

Clause 45: Powers and procedures of the Board

This clause governs various procedural matters, including providing the Board with power to issue summonses and require a person to make an oath or affirmation.

Clause 46: Immunity

This clause provides protection against civil liability to the members of the Board and to the Registrar of the Board.

Division 4—Miscellaneous

Clause 47: Regulations

This clause provides general regulation making power in relation to the application of the measure in this State. It specifically provides a power to fix fees in respect of any matter under the measure.

Part 7—Local Transitional and Consequential Provisions

Clause 48: Reference tariffs during transitional period

This clause enables the Regulator to depart from the usual reference tariff principles in approving access arrangements during the period until all consumers are classified as contestable under the *Gas Act 1997*. The Regulator is required to take into account the need to avoid "rate shock" during that period. Any such departure is required to be identified and explained in the relevant access arrangement.

Division 2—Consequential Amendments

Subdivision 1—Preliminary

Clause 49: Interpretation

This is an interpretation provision for the purposes of the Division.

Subdivision 2—Repeal of Natural Gas Pipelines Access Act 1995

Clause 50: Repeal

This clause repeals the *Natural Gas Pipelines Access Act 1995* which regulates access to transmission pipelines.

It contains transitional provisions providing that the access provisions of the repealed legislation are to continue to apply in relation to a pipeline until an access arrangement is approved for the pipeline under the new scheme.

Subdivision 3—Amendment of Gas Act 1997

Clause 51: Amendment of s. 8—Functions

The Technical Regulator under the *Gas Act 1997* is given an additional function of providing advice on technical matters to the *South Australian Independent Pricing and Access Regulator*.

Clause 52: Amendment of s. 11—Obligation to preserve confidentiality

Clause 53: Amendment of s. 18—Obligation to preserve confidentiality

These amendments enable the Technical Regulator to divulge relevant information to the *South Australian Independent Pricing and Access Regulator*.

Clause 54: Amendment of s. 24—Licence fees and returns

The costs of administering the gas pipelines access legislation is to be able to be taken into account in fixing licence fees in addition to the costs of administering the *Gas Act 1997*.

Subdivision 4—Amendment of Petroleum Act 1940

Clause 55: Amendment of s. 80L—Minister may require operator to convey petroleum

The Minister's powers under section 80L to require an operator to convey petroleum are not to extend to conveying petroleum by means of a Code pipeline for which an access arrangement is in place.

Schedule 1—Third Party Access to Natural Gas Pipelines

Part 1—Preliminary

Clause 1: Citation

Schedule 1 together with Schedule 2 make up the *Gas Pipelines Access Law*.

Clause 2: Definitions

This clause contains the principal definitions of words and expressions used in the Law.

Clause 3: Scheme participants

This clause sets out that the Commonwealth and each State and Territory are scheme participants and the circumstances in which a jurisdiction will cease to be a scheme participant.

Clause 4: Interpretation generally

This clause states that the Appendix contains miscellaneous provisions relating to interpretation of the Law.

Part 2—National Third Party Access Code for Natural Gas Pipeline Systems

Clause 5: The Code

This clause provides that the Law and Acts of Parliament prevail over the Code to the extent of any inconsistency.

Clause 6: Amendment of Code

This clause enables the Ministers of the scheme participants to amend the Code without Parliamentary scrutiny. The amendment must be relevant to the subject matter of the Code as enacted. Unanimous agreement of the Ministers is required for an amendment to a core provision (as defined in the Code), a provision that deals with a subject matter not previously dealt with in the Code or for extension of the decisions made under the Code that are subject to review by the relevant appeals body. For other amendments two-thirds of the Ministers must agree.

The only matters that cannot be amended by the Ministers are the criteria for determining whether a pipeline is to be covered, or to cease to be covered, by the Code.

Clause 7: Availability of copies of amended Code

This clause requires the Code Registrar to ensure copies of the Code in consolidated form are available for inspection and for purchase.

Clause 8: Evidence

This clause is an evidentiary aid relating to the Code.

Part 3—Pipelines

Clause 9: Definitions

This clause contains definitions for the purposes of this Part.

Clause 10: Application for classification and determination of close connection for purposes of coverage under Code

A service provider, the ACCC, the NCC or a local Regulator may apply to Ministers for classification of a pipeline and, in the case of a cross-boundary distribution pipeline, determination of the jurisdiction to which the pipeline is most closely connected. The latter will determine which Regulator has responsibility in relation to the pipeline.

The decision is to be made by the Minsters of the jurisdictions in which the pipeline is situated and the Commonwealth Minister. The definition clause sets out criteria governing the decision.

Clause 11: Classification when Ministers do not agree

This clause provides a scheme under which the NCC is to make a decision if the Ministers are unable to agree.

Clause 12: Code Registrar to record classification etc.

The Code Registrar is to record the relevant decisions.

Clause 13: Preventing or hindering access

This clause prohibits a service provider, user or an associated of a service provider or user from engaging in conduct for the purpose of preventing or hindering access to a service provided by means of a Code pipeline. See Part 5 for proceedings that may be taken in the event of breach of the clause (which is a civil penalty provision and a conduct provision).

Part 4—Arbitration of access disputes

Clause 14: Definitions

This clause contains definitions for the purposes of this Part.

Clause 15: Application of Part

This clause recognises that disputes are referred to arbitration under the Code (Schedule 2).

Clause 16: Person to conduct arbitration

The Regulator may conduct the arbitration or appoint another to do so.

Clause 17: Where ACCC conducts arbitration

This clause sets out how the ACCC is to be constituted in relation to arbitration of disputes about pipelines in relation to which it is the relevant Regulator (in SA—transmission pipelines).

Clause 18: Hearing to be in private

The parties may agree to the hearing or part of the hearing to be conducted in public. Otherwise the hearing will be in private.

Clause 19: Right to representation

The parties are to be able to be represented by a person of their choice.

Clause 20: Procedure

Clause 21: Particular powers of arbitrator

These clauses provide for procedural matters related to the arbitration.

Clause 22: Determination

This clause requires the arbitrator to make a determination in writing and contains certain powers to correct errors in determinations.

Clause 23: Contempt

This clause makes it an offence for a person to do anything in the arbitration that would amount to contempt of court.

Clause 24: Disclosure of information

This clause makes it an offence to contravene an order of an arbitrator not to divulge specified information without the arbitrator's permission.

Clause 25: Power to take evidence on oath or affirmation

The arbitrator is given power to take sworn evidence.

Clause 26: Failing to attend as a witness

Clause 27: Failing to answer questions etc.

Clause 28: Intimidation

These clauses create offences related to failure to comply with requirements of the arbitrator or coercing other persons to fail to comply.

Clause 29: Party may request arbitrator to treat material as confidential

This clause provides for confidentiality of material between parties in appropriate cases.

Clause 30: Costs

Costs are to be in the discretion of the arbitrator.

Clause 31: Appeal to Court

An appeal from a determination of an arbitrator is provided for on a question of law.

Part 5—Proceedings for Breach of Code

Clause 32: Proceedings

The Regulator is authorised to bring civil proceedings under the Part for breaches of a civil penalty provision or a regulatory or conduct provision.

Any person may bring civil proceedings under the Part for breach of a conduct provision (as defined in the Code).

Preventing or hindering access is both a civil penalty provision and a conduct provision. A producer failing to comply with obligations relating to the supply and haulage of gas is both a civil penalty provision and a regulatory provision. Other civil penalty provisions will be specified in the regulations and other regulatory and conduct provisions are set out in 10.7 of the Code.

Clause 33: Criminal proceedings do not lie

Breaches of the Law (which includes the Code) do not give rise to criminal proceedings.

Clause 34: Civil penalty

This clause allows the Court, on the application of a Regulator, to impose a pecuniary penalty (to a maximum fixed by regulation but not exceeding $100 000) for breach of a civil penalty provision.

Clause 35: Injunctions

This clause allows the Court to grant an injunction in relation to breach of a regulatory or conduct provision.

Clause 36: Actions for damages for contravention of conduct provision

This clause provides for recovery of the amount of loss or damage resulting from contravention of a conduct provision.

Clause 37: Declaratory relief

This clause allows the Court to declare whether or not a regulatory provision or conduct provision has been contravened. At the same time the Court may order a person to cease a contravention or to take action to remedy a contravention.

Part 6—Administrative Appeals

Clause 38: Application for review

This clause provides for appeal to a local appeals body against the following decisions:

- that a pipeline or proposed pipeline is, or is not, or ceases to be, or does not cease to be, a Code pipeline;
- to add to, or to waive, the requirement under the Code that a service provider be a body corporate or statutory authority or not be a producer, purchaser or seller of natural gas or relating to the separation of certain activities of a service provider;
- not to approve a contract, arrangement or understanding between a service provider and an associate of a service provider;
- relating to any other matter that, under the Code, is a decision for which there is an appeal.

Clause 39: Merits review of access arrangements

Special limitations apply in relation to a review of a decision of the Regulator to draft and approve an access arrangement (or revision) in place of one submitted for approval. The grounds on which a review may be sought are limited, as is the material that may be taken into account.

Part 7—General

Clause 40: Supply and haulage of natural gas

A producer may be required to provide a price for gas supplied at the exit flange of the processing plant in addition to a price for gas supplied further downstream. A producer may also be required to supply gas to a user at the exit flange if the producer is prepared to supply gas to a user further downstream.

Clause 41: Power to obtain information and documents
Clause 42: Restriction on disclosure of confidential information
Clause 43: Application for review of a disclosure notice
These clauses provide a scheme for a Regulator to obtain relevant information and documents in relation to functions relating to approving access arrangements, approving associate contracts and monitoring compliance with the Code.

Appendix to Schedule 1—Miscellaneous provisions relating to interpretation
The appendix contains uniform interpretation provisions of a kind which are usually contained in the Interpretation Act of a State or Territory.

Schedule 2—National Third Party Access Code for Natural Gas Pipeline Systems
This Schedule contains the text of the Code.

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

GAS (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. K.T. GRIFFIN (Minister for Justice): 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 proposes some amendments to the *Gas Act 1997*, largely to clarify the policy intent of that legislation. The intention is first that all persons carrying on the business of selling gas to end use consumers, being consumers supplied with gas by a distribution system, must be licensed to retail gas under the *Gas Act 1997*. Secondly, in order to ensure there is an orderly and progressive introduction of a fully contestable market in gas, new licences to retail will be licences to sell gas to "contestable consumers".

"Contestability" is a concept which provides for choice of retailer by a consumer. Regulations to be made as soon as this measure passes will set out a "contestability timetable", progressively increasing the class of consumers who are contestable by reference to their level of gas consumption until the step is reached, in July 2001, that all consumers are contestable. I might mention that the Natural Gas Pipeline Access Agreement (the inter-governmental agreement recently entered into between all States, the Territories and the Commonwealth to provide for access to the transmission and distribution gas pipelines throughout Australia) provides that this last step of full contestability may be reviewed.

Provision is also made, by paragraph (b) of the proposed new definition of non-contestable consumer, for the Minister to classify consumers as contestable but this power is constrained by paragraph (e) of clause 3. Such a classification can only be made where such action is consistent with the orderly introduction of a fully competitive gas market. The "contestability timetable" is expected to be the norm, and is designed to eliminate consumer price shocks. As such, any change would need careful consideration by government. However, it seems wise to provide some flexibility for exceptional and unusual circumstances which cannot be foreseen. Such flexibility will enable the achievement of pro-competitive outcomes.

The Government is committed to gas industry reform to increase competition with the benefits of competition to be gained by gas consumers. Part and parcel of this commitment is a desire to ensure that gas industry licensing requirements are spelled out in the legislation for industry and others to see, hence the new section 21 (4) providing that after its commencement the Technical Regulator can only issue licences authorising retailing to contestable consumers. The Government is keen that there be a level playing field for industry and, to this end, to ensure that there can be no doubt that all persons selling gas to distribution system connected consumers must be licensed and subject to the same licence fee requirements, hence the new definitions of "retailing" and "distribution system" in clause 3 of the Bill.

The change to the definition of "distribution system" is to ensure than an operator of what can be more appropriately called a "part of a system" rather than "a system" in itself will be subject to safety and technical obligations in respect of that part of a system. It also clarifies that the exclusion referred to in paragraph (b) of the definition is limited to what was originally intended, namely factory and other like premises where gas storage tanks are located on the premises and all piping is contained within and does not extend beyond the boundaries.

There is some urgency involved in the passage of this Bill as the ability to set out the full "contestability timetable", as contemplated by the Natural Gas Pipeline Access Agreement, is dependent on regulations being made under the new definition of "non-contestable consumer" provided by this Bill.

I commend this Bill to honourable members.

Clause 1: Short title
Clause 2: Commencement
These clauses are formal.

Clause 3: Amendment of s. 4—Interpretation
A new definition of distribution system is proposed which clarifies what forms part of such a system. The new definition provides that a distribution system is the whole or a part of a system of pipes and equipment for use for, or in connection with, the distribution and supply of gas to persons for consumption. However, a distribution system does not include—

- a pipeline in respect of which a licence has been granted or is required under Part 2B of the *Petroleum Act 1940* (other than a pipeline declared by the regulations to be, or form part of, a distribution system; or
- a system of pipes and equipment installed in a place for the conveyance and use of gas from a pressurised vessel situated in the place that do not extend to, or connect to pipes in, some other place in separate occupation; or
- pipes or equipment declared by the regulations not to be, or form part of, a distribution system.

The proposed change to the definition of gas infrastructure is a minor drafting change. Currently, gas infrastructure means any part of the distribution system of a gas entity. Now the definition of gas infrastructure is defined as any part of a distribution system owned or operated by a gas entity.

It is proposed to substitute a new definition of non-contestable consumer so that it means a consumer other than—

- consumers classified by regulation as contestable consumers; or
- consumers classified by the Minister under new section 4(2) (*see below*) as contestable consumers.

It is proposed to strike out the definitions of retailing and supply. Retailing of gas is newly defined to mean the sale and supply of gas to a person for consumption (and not for resale) where the gas is to be conveyed (whether or not by the seller) to the person by a distribution system, but does not include an activity declared by regulation not to be retailing of gas. The definition of supply did not serve any purpose in interpreting the Act and so has been struck out.

It is proposed to insert a new subsection (2) to provide that the Minister may classify a consumer or consumers as contestable consumers if satisfied that such action is consistent with the orderly introduction of a fully competitive gas market.

Clause 4: Amendment of s. 21—Consideration of application for issue of licence
New subsection (4) provides that the Technical Regulator may not issue a licence on or after the commencement of this proposed subsection authorising the retailing of gas to a non-contestable consumer.

Clause 5: Amendment of s. 25—Licence conditions
The amendment proposed to this section is to make it clear that a variation of a condition of a licence, or the imposition of further conditions, may occur at any time during the term of a licence and not just on the issue or renewal of a licence.

Clause 6: Amendment of s. 66—Power of entry
The amendment is of a drafting nature only. An incorrect reference to a "gas officer" is changed to a reference to an "authorised officer" (as it should have been).

The Hon. T.G. ROBERTS secured the adjournment of the debate.

ADJOURNMENT

At 6.5 p.m. the Council adjourned until Thursday 4 December at 11 a.m.