LEGISLATIVE COUNCIL

Wednesday 18 February 1998

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

ASSENT TO BILLS

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

Development (Building Rules) Amendment,

Electricity (Miscellaneous) Amendment,

Gaming Machines (Gaming Venues in Shopping Centres) Amendment,

Gas (Miscellaneous) Amendment,

Gas Pipelines Access (South Australia),

Guardianship and Administration (Extension of Sunset Clause) Amendment,

Land Tax (Land Held on Trust) Amendment,

Local Government (Holdfast Shores) Amendment,

Motor Vehicles (Heavy Vehicles Registration Charges) Amendment,

Road Traffic (Speed Zones) Amendment,

Roxby Downs (Indenture Ratification)(Aboriginal Heritage) Amendment,

Stamp Duties (Miscellaneous No. 2) Amendment,

Statutes Amendment (Ministers of the Crown),

Unclaimed Superannuation Benefits.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on notice, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 1, 2, 5, 7, 8, 11 to 14, 16 to 23, 25, 27, 29, and 33.

SPEEDING

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

1. How many motorists were caught speeding in South Australia between 1 April 1997 and 30 June 1997 by—
(a) speed cameras;
(b) laser guns; and
(c) other means;
for the following speed zones—
60-70 km/h;
70-80 km/h;
80-90 km/h;
90-100 km/h;
100-110 km/h;
110 km/h and over?

2. Over the same period, how much revenue was raised from speeding fines in South Australia for each of these percentiles by—
(a) speed cameras;
(b) laser guns; and
(c) other means?

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

The number of speeding fines issued to motorists for the period 1 April 1997 to 30 June 1997 for each of the following categories are as follows:

Speed Camera

Speeding Offences Issued/Expiated During April 1997 to June 1997

Speeding Category	Issued		Expiated	
	Number	Amount $	Number	Amount $
Speed Camera				
Less than 60 km/h	373	53 957	837	122 861
60-69 km/h	20	4 528	28	6 688
70-79 km/h	52 538	6 841 233	35 026	4 512 661
80-89 km/h	4 856	856 856	2 796	491 482
90-99 km/h	9 807	1 405 343	5 170	739 454
100-109 km/h	2 373	403 485	1 319	215 938
110 km/h and over	716	149 632	542	92 098
Unknown	743	104 778	624	85 810
Total	71 426	9 819 812	46 342	6 266 992

Laser Guns

SAPOL do not keep separate statistics for speeding offences detected by laser guns.

Other Means

SAPOL do not keep separate statistics for non speed camera offences for the categories requested.

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

1. How many motorists were caught speeding in South Australia between 1 July 1997 and 30 September 1997 by—
(a) speed cameras;
(b) laser guns; and
(c) other means;
for the following speed zones—
60-70 km/h;
70-80 km/h;
80-90 km/h;
90-100 km/h;
100-110 km/h;
110 km/h and over?

2. Over the same period, how much revenue was raised from speeding fines in South Australia for each of these percentiles by—
(a) speed cameras;
(b) laser guns; and
(c) other means?

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

The number of speeding fines issued to motorists for the period 1 July 1997 to 30 September 1997 for each of the following categories are as follows:

Speed Camera

Speeding Offences Issued/Expiated During July 1997 to September 1997

Speeding Category	Issued		Expiated	
	Number	Amount $	Number	Amount $
Speed Camera				
Less than 60 km/h	166	24 515	177	25 024
60-69 km/h	5	1 242	7	1 593
70-79 km/h	48 425	6 344 916	42 020	5 436 946
80-89 km/h	4 570	802 036	3 285	577 318
90-99 km/h	6 736	991 927	7 091	994 060
100-109 km/h	3 758	554 327	2 213	332 644
110 km/h and over	762	167 973	367	81 888
Unknown	186	29 251	189	27 993
Total	64 608	8 916 187	55 349	7 477 466

Laser Guns

SAPOL do not keep separate statistics for speeding offences detected by laser guns.

Other Means

SAPOL do not keep separate statistics for non speed camera offences for the categories requested.

5. **The Hon. T.G. CAMERON:** How many motorists were issued speeding fines in South Australia and how much revenue was raised from these offences for the period 1 July 1996 to 31 December 1996?

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

The number of speeding fines issued to motorists for the period 1 July 1996 to 31 December 1996 for each of the following percentiles are as follows:

Percentiles	Number of speeding fines issued
Speed Camera issues:	
Less than 60 km/h	4 376
60—69 km/h	150
70—79 km/h	97 619
80—89 km/h	8 978
90—99 km/h	8 701
100—109 km/h	1 510
110 km/h and over	2 182
Unknown	2 087
Total Speed Camera issues	125 603
Speeding fines manually issued	38 364
Total speeding fines issued	163 967

Please note, the inclusion of the category 'unknown' above, is due to data on speed travelled not being available for reissued notices.

The revenue raised from speeding fines between 1 July 1996 and 31 December 1996 for each of the following percentiles are as follows:

Percentiles	Issues Amount ($'000s)	Expiations Amount ($'000s)
Speed Camera:		
Less than 60 km/h	625	485
60—69 km/h	34	22
70—79 km/h	12 267	9 341
80—89 km/h	1 578	1 132
90—99 km/h	1 270	877
100—109 km/h and over	273	153
110 km/h and over	335	94
Unknown	280	156
Total Speed Camera	16 662	12 260
Non Speed Camera	6 486	4 722
Total	23 148	16 982

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

1. How many speed camera expiation notices were discarded by the police for whatever reasons for the years—

(a) 1993-94;

(b) 1994-95;

(c) 1995-96?

2. Why is it possible for Victorian speed cameras to decipher which car is speeding when there are two or more cars on a speed camera photograph?

3. Is the Government intending to upgrade to similar equipment and when?

4. Will the police consider signposting to inform motorists that particular areas are being blitzed?

5. Will the Minister for Police, Correctional Services and Emergency Services ensure that members of the public caught by speed cameras or laser guns are able to inquire and be advised by the police why the devices were placed at these particular locations?

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

1. (a) 114 298
   (b) 93 475
   (c) 104 182

2. The equipment used in Victoria uses a template to identify the offending vehicle within certain parameters.

3. The South Australian Government is intending to upgrade to similar equipment. Registrations of interest have been sought and are under consideration.

4. Signposting to inform motorists that particular areas are being blitzed has been considered in the past, however it is not part of current considerations. It is considered that the legal speed limits are widely known and the use of speed detection equipment is well understood. A major factor in the deterrent effect is the unpredictability of police speed detection initiatives.

5. Speed detection equipment is deployed at particular locations based on accident data received of locations of high crash risk, determined by using a speed weighted crash rating, or high volume/high speed locations with crash potential, or areas of public complaint or frequent speeding. This information is available from the SA Police.

BICYCLES AND TRIKES

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

1. Is the Minister for Police, Correctional Services and Emergency Services aware that many of the bikes and trikes used by the Road Safety School, Police Barracks at Thebarton are twenty or more years old?

2. Will the Minister ensure the ageing bikes and trikes are replaced at the earlier opportunity?

3. Considering the Road Safety School provides important grass roots training for thousands of young South Australian road users:

(a) Will the Minister investigate whether the current funding levels of this service are adequate; and

(b) If not, why not?

The Hon. K.T. GRIFFIN:

1. Yes

2. A sponsorship proposal was prepared by the Traffic Safety and Promotions Section of Traffic Services Division which included plans for the replacement of 100 bicycles. Coca Cola Amatil was approached and have agreed to provide sponsorship monies of $5 000 per year for the next three years to replace the bicycles. A sponsorship registration has been presented to SAPOL for recording of the agreement as a formal sponsorship arrangement.

3. There is no specific funding for this service, rather it is incorporated with budget allocations to Traffic Safety and Promotions generally. If a need exists it will be considered accordingly.

SPEEDING

11. **The Hon. T.G. CAMERON:** Could you please provide the number of people caught by speed detection equipment (including speed cameras, laser guns and any other) by post code for the year 1995-96?

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

The number of people caught by speed detection equipment and reside in areas with particular postcodes for the year 1995-96 are as follows:

	Postcode	No. Issued
Interstate/unknown		9981
SA Metro	5000	6944
	5006	1104
	5007	1455
	5008	1923
	5009	938
	5010	790
	5011	1446
	5012	1107
	5013	1770
	5014	2145
	5015	983
	5016	1071
	5017	709
	5018	1106
	5019	1489
	5020	634
	5021	1328
	5022	2440
	5023	2512
	5024	2451
	5025	1743
	5031	2406
	5032	1721
	5033	1676
	5034	1406
	5035	1047
	5037	1269
	5038	1692
	5039	1246
	5040	287
	5041	1417
	5042	1813
	5043	1707
	5044	1137
	5045	1895
	5046	829
	5047	947
	5048	1366
	5049	1464
	5050	889
	5051	1568
	5052	790
	5061	1677
	5062	1561
	5063	1675
	5064	1111
	5065	1265
	5066	1557
	5067	1926
	5068	1636
	5069	1332
	5070	1677
	5072	1730
	5073	2088
	5074	1681
	5075	1411
	5076	1426
	5081	1538
	5082	2159
	5083	899
	5084	1265
	5085	1164
	5086	1456
	5087	1384
	5088	786
	5089	1013
	5090	911
	5091	1201
	5092	2199
	5093	1267
	5094	650
	5095	1275
	5096	1633
	5097	1960
	5098	1192
	5107	1987
	5108	4750
	5109	3111
	5110	671
	5111	82
	5112	2128
	5113	1796
	5114	2047
	5115	259
	5116	365
	5117	165
	5118	1228
	5120	347
	5121	155
	5125	1629
	5126	1284
	5127	1165
	5134	43
	5136	79
	5138	39
	5140	50
	5141	102
	5142	68
	5150	14
	5151	57
	5152	831
	5153	658
	5154	423
	5155	424
	5156	155
	5157	392
	5158	2895
	5159	4322
	5160	237
	5161	1754
	5162	5129
	5163	2181
	5164	765
	5165	725
	5166	363
	5167	841
	5168	577
	5169	1322
	5170	144
	5171	628
	5172	452
	5173	755
	5174	181
	5950	363
Total Metro		162 503
SA Country	872	12
	5131	178
	5132	35
	5133	56
	5144	58
	5201	200
	5202	67
	5203	102
	5204	150
	5210	131
	5211	625
	5212	116
	5213	78
	5214	314
	5222	12
	5223	63
	5231	90
	5232	38
	5233	116
	5234	120

5235	144
5238	172
5240	54
5241	128
5242	145
5243	78
5244	335
5245	319
5250	190
5251	742
5252	338
5253	999
5254	75
5255	315
5256	39
5259	28
5260	76
5261	30
5262	20
5264	99
5265	21
5266	40
5267	118
5268	157
5270	24
5271	263
5272	32
5275	56
5276	46
5277	108
5278	19
5279	9
5280	235
5290	1012
5291	141
5301	38
5302	49
5304	46
5307	42
5308	3
5310	2
5311	7
5320	26
5321	17
5322	26
5330	259
5332	35
5333	290
5340	49
5341	440
5342	41
5343	466
5344	41
5345	225
5346	15
5350	28
5351	337
5352	352
5353	238
5354	21
5355	323
5356	54
5357	31
5360	76
5371	68
5372	102
5373	173
5374	59
5381	19
5400	38
5401	77
5411	23
5412	57
5413	45
5414	12
5416	9
5417	89
5418	16
5419	27
5421	7
5422	77
5431	31
5433	50
5434	15
5440	15
5451	43
5453	196
5454	17
5460	43
5461	114
5462	10
5464	19
5470	7
5472	14
5473	35
5480	38
5481	26
5482	14
5483	26
5485	20
5490	7
5491	73
5495	14
5501	545
5502	119
5520	45
5521	6
5522	36
5523	82
5540	694
5550	69
5552	22
5554	231
5555	38
5556	126
5558	151
5560	33
5570	12
5571	65
5573	111
5575	70
5576	34
5577	22
5580	13
5581	25
5582	32
5583	21
5600	540
5601	4
5602	32
5603	20
5604	5
5605	38
5606	421
5607	43
5608	991
5609	45
5631	33
5632	8
5633	21
5640	24
5641	33
5642	3
5650	9
5651	9
5652	42
5654	11
5655	4
5670	15
5680	52
5690	163
5700	537
5710	90
5720	94
5722	17
5723	141
5724	23
5725	216

	5731	47
	5732	7
	5733	4
	5734	4
Total Country		20 818
Total		193 302

SPEED CAMERAS

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

1. How many speed cameras are currently in use by the police?

2. (a) are there plans for any more speed cameras to be introduced in the next 12 months; and

(b) If so, how many?

3. How many operators are currently employed to operate speed cameras?

4. In percentage terms, how often would 'Speed Camera in Use' signs be displayed by the average camera operator in a normal working week?

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

1. Fourteen.

2. (a) Yes

(b) 18

3. Thirty six, comprising 32 operators and four supervisor/managers

4. There is no way of determining this in percentage terms as records are not kept. Each operator has a discretion to exercise for each location.

SMALL BUSINESS

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

1. How much did the Small Business Update advertisements cost that ran in the Messenger suburban newspapers on 2 July 1997?

2. Which Government Department approved their production?

3. In which newspapers did the advertisement appear?

4. How often will the Small Business Update Advertisements be run?

The Hon. R.I. LUCAS: The Minister for Industry and Trade has provided the following:

1. The advertisements cost $12 375 and consisted primarily of articles promoting small business success in South Australia.

2. The advertisement was written, designed and approved by the Department of Industry and Trade (formally the Economic Development Authority).

3. The Small Business Update advertisements appeared in all 11 metropolitan editions of the Messenger Press on 2 July 1997. A second Small Business Update advertisement, also costing $12 375, was published in all 11 Messenger newspapers on 6 August 1997.

4. The Department for Industry and Trade has no plans, at this stage, to continue the advertisements in Messenger Press.

SPEED LASER GUNS

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

1. How many laser guns are currently in use by the police?

2. Are there any plans for any more laser guns to be introduced in the next 12 months?

3. If so, how many?

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

1. One hundred and thirty three.

2. There are no plans at this time to procure any more laser guns. However, future purchases will be dependent upon the ongoing formulation of traffic policing strategies.

TRANSADELAIDE ACCIDENTS

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

1. How many accidents occurred on TransAdelaide bus, train and tram services for the years—

(a) 1993-94;

(b) 1994-95;

(c) 1995-96?

2. How many passengers were injured on TransAdelaide bus, train and tram services for the years—

(a) 1993-94;

(b) 1994-95;

(c) 1995-96?

3. How many passengers were paid for injuries sustained from accidents that occurred on TransAdelaide bus, train and tram services for the years—

(a) 1993-94;

(b) 1994-95;

(c) 1995-96?

4. What were the total figures for these payments for the years—

(a) 1993-94;

(b) 1994-95;

(c) 1995-96?

5. How many accidents occurred on Serco bus services for the year 1995-96?

6. How many passengers were injured on Serco bus services for the year 1995-96?

7. How many passengers were paid for injuries sustained from accidents that occurred on Serco bus services for the year 1995-96?

8. What were the total figures for these payments for the year 1995-96?

The Hon. Diana LAIDLAW:

1. (a) 339
   (b) 357
   (c) 286
2. (a) 293
   (b) 343
   (c) 272
3. (a) 88
   (b) 97
   (c) 56[1]
4. (a) $317 497
   (b) $326 9777
   (c) $63 416[2]

Note: Payment for injuries does not always take place in the year of the incident. Concerning Bodily Injury claims, the matter may not be settled for approximately three to five years after the actual incident.

1. Compulsory Third Party Bodily Insurance was transferred to the Motor Accident Commission (MAC) as from 1 July 1995 for buses leased by TransAdelaide from the Department of Transport, and as from 2 November 1995 for buses owned by TransAdelaide.

2. Information concerning payments made by the MAC is not available to Trans-Adelaide.

5. Serco buses were involved in a total of 98 accidents in 1995-96.

6. A total of 11 reported passenger injuries occurred on Serco buses in 1995-96.

7. Serco does not have access to this information. Serco's third party insurance is held through SGIC and all reported injuries are passed to SGIC which processes the claim with the other party.

BUS SERVICES

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

1. How many people have used the City Loop and Beeline Bus services during the last three years?

2. How many buses are involved?

3. What are the hours of operation?

4. How much does each service cost to run?

The Hon. DIANA LAIDLAW:

1. The City Loop and Beeline services carried approximately 2 million passengers in 1996-97; 1.8 million passengers in 1995-96 and 1.6 million passengers in 1994-95. It should be noted that the City Loop services commenced operation midway through the 1995-96 period.

2. Ten buses are required to service the City Loop and Beeline services.

3. The hours of operation are Monday to Thursday, 8 a.m. to 6 p.m.; Friday, 8 a.m. to 9.30 p.m.; and Saturday, 8.15 a.m. to 5.45 p.m.

4. TransAdelaide has one integrated contract with the Passenger Transport Board to provide both City Loop and Beeline services. Under the system of competitive tendering or negotiated contracts, the individual contract arrangements are commercially confidential. The Passenger Transport Board also receives advertising revenue and sponsorship to help offset the costs of these popular, free services.

RAILWAY SPENDING

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

1. How much has been spent on each of the metropolitan railway lines for the years—

(a) 1993-94;

(b) 1994-95;

(c) 1995-96?

2. How much has been spent by TransAdelaide on train station upgrades for the years—

(a) 1993-94;

(b) 1994-95;

(c) 1995-96?

3. Which train stations were upgraded and how much was spent on each station for the years—

(a) 1993-94;

(b) 1994-95;

(c) 1995-96?

The Hon. DIANA LAIDLAW:

1.

1993-94	Total $
General Items (not allocated to a particular railway line)	458 146
Adelaide Yard (extends to Mile End and Wye Junction—by Old Adelaide Gaol)	694 430
Mile End to Goodwood	375 299
Goodwood to Belair	1 031 114
Goodwood to Port Stanvac	408 476
Port Stanvac to Noarlunga Centre and Ascot Park to Tonsley	263 066
Wye Junction to Glanville	615 006
Glanville to Outer Harbour and Woodville to Grange	145 252
Wye Junction to Dry Creek	325 937
Dry Creek to Gawler Central	710 115
	5 026 841

1994-95	Total $
General Items (not allocated to a particular railway line)	916 114
Adelaide Yard (extends to Mile End and Wye Junction—by Old Adelaide Gaol)	333 725
Mile End to Goodwood	132 026
Goodwood to Belair	128 758
Goodwood to Port Stanvac	2 937 225
Port Stanvac to Noarlunga Centre and Ascot Park to Tonsley	405 181
Wye Junction to Glanville	90 581
Glanville to Outer Harbour and Woodville to Grange	341 225
Wye Junction to Dry Creek	159 244
Dry Creek to Gawler Central	715 613
	6 159 692

1995-96	Total $
General Items (not allocated to a particular railway line)	774 734
Adelaide Yard (extends to Mile End and Wye Junction—by Old Adelaide Gaol)	395 369
Mile End to Goodwood	367 050
Goodwood to Belair	649 967
Goodwood to Port Stanvac	1 043 759
Port Stanvac to Noarlunga Centre and Ascot Park to Tonsley	1 541 945
Wye Junction to Glanville	225 510
Glanville to Outer Harbour and Woodville to Grange	565 158
Wye Junction to Dry Creek	142 017
Dry Creek to Gawler Central	938 589
	6 644 098

2. 1993-94—$606 312
1994-95—$551 454
1995-96—$729 237

3.

1993-94		
Marino	-	$98 998
Cheltenham Racecourse	-	$37 971
Oaklands	-	$80 476
Lonsdale	-	$24 911
Woodville Park	-	$84 000
Draper	-	$41 648
Gawler Central	-	$9 969
Woodlands Park	-	$55 937
Woodville	-	$52 536
Noarlunga Centre	-	$13 581
Torrens Park	-	$12 261
Grange	-	$15 492
Bowden	-	$10 165
Kilkenny	-	$8 297
Tramline Stop 17	-	$14 949
Hallett Cove Beach	-	$30 948
Tramline—Various Stops	-	$6 370
Belair	-	$4 819
Oaklands	-	$2 984
1994-95		
Lonsdale	-	$30 130
Clapham	-	$13 464
North Adelaide	-	$39 071
Oaklands	-	$116 787
Blackwood	-	$22 416
Elizabeth	-	$148 470
Lonsdale	-	$22 044
Marion	-	$109 509
Gawler	-	$36 858
Ovingham	-	$12 705
1995-96		
Belair	-	$94 286
Osborne	-	$53 000
Coromandel/Eden Hills	-	$36 063
Mitcham	-	$34 561
Brighton	-	$15 922
Edwardstown	-	$40 219
Seaton Park	-	$97 395
Blackwood	-	$21 130
Gawler	-	$49 317
Christie Downs	-	$28 917
Kudla	-	$14 990
Nurlutta	-	$34 190
Lynton	-	$40 214
Clapham	-	$74 975
Marino Rocks	-	$12 058
Noarlunga Centre	-	$82 000

TAXIS

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

1. Will the Minister publicly release the Taxi Safety Initiatives Study recently completed by the University of SA which made a number of pro-active and preventative recommendations for taxi drivers?

2. When will the Passenger Transport Board make a decision on the studies recommendations?

The Hon. DIANA LAIDLAW:

1. The Taxi Safety Initiatives Study was publicly released on Thursday, 31 July 1997. A copy was forwarded to the honourable member at the time!

2. Since the study's completion the Passenger Transport Board and the taxi industry have undertaken a number of initiatives to improve taxi driver safety. These initiatives have included:

- a major public awareness program which encouraged people to leave their porch light on after dark, and advertised new conditions for taxi hirings;
- a taxi fare increase which included a 1% safety levy to encourage taxi operators to install safety initiatives;
- an extensive trial of video surveillance equipment in Adelaide taxis;
- the establishment of a Video Surveillance Review Committee to provide advice on surveillance systems and evaluate the results of the trial;
- a trial of driver duress alarms, internal boot releases and driver security shields;
- the setting up of a "Taxi Driver Safety Line" to facilitate the reporting of incidents and provide feedback;
- the running of industry focus groups to enable taxi drivers to discuss and identify safety initiatives;
- a Safety Officer Scheme requiring each Centralised Booking Service to nominate a staff member to assist taxi drivers involved in incidents and to encourage the reporting of these incidents;

- State Government funding for the appointment of an Executive Director for the taxi industry to co-ordinate safety initiatives and promotional activities to benefit the industry and its customers; and
- State Government funding for the establishment of a Standing Committee on Taxi Safety with a Chairperson to be appointed by the Government.

RAILWAYS, EMERGENCY TELEPHONES

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

1. How much did the emergency telephones cost recently installed by TransAdelaide at its Salisbury and Noarlunga railway stations?

2. Are there plans to install them at other stations?

3. If so—

(a) At which stations; and

(b) When will they be installed?

The Hon. DIANA LAIDLAW:

1. The latest emergency telephone at Noarlunga Interchange was installed as an addition to the two emergency telephones that have existed at this station for some years. The cost for the third telephone was $3 300 plus an annual Telstra line rental of around $240 per annum.

The cabling for this emergency telephone was installed as part of the Noarlunga Centre redevelopment project.

The emergency telephone at Salisbury Interchange was installed in August 1991 at a cost of approximately $2 000.

2. TransAdelaide is constantly reviewing the provision of facilities to improve customer safety. Emergency telephones need the support of other security measures to be effective and their provision is considered in any proposals for upgrading stations.

An emergency telephone was installed at Hallett Cove station in late September in conjunction with the ICON station program.

3. (a) Emergency telephones are to be installed at Coromandel and Ascot Park Stations.

(b) An order will be placed with Telstra for the telephone at Coromandel Station and the installation is scheduled to take place in June 1998. With reference to Ascot Park Station, it is anticipated that the installation will occur in the latter half of 1998.

ADELAIDE AIRPORT

21. **The Hon. T.G. CAMERON:** Why has there been a blow-out of more than $3 million on the Tapleys Hill Road deviation at Adelaide Airport?

The Hon. DIANA LAIDLAW: There has been no blow-out in the budget for any work associated with the extension to the Adelaide Airport runway. The project is proceeding within budget and ahead of schedule.

INTERNATIONAL DRIVING PERMITS

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

1. Is the Minister aware of media reports stating that for $175 a disqualified or unlicensed driver can purchase an International Driving Permit over the Internet through the Puerto Rico based Pan American Auto Travel Association and permits the holder to hire vehicles of any kind from motor cycles to three ton trucks?

2. Are the reports accurate?

3. If so, what action has the State Government taken to ensure this practice is discontinued?

The Hon. DIANA LAIDLAW:

1. I am aware of media reports that an International Driving Permit can be obtained through the Internet. However, an International Driving Permit is not on its own an authority to drive a motor vehicle.

International Driving Permits are issued under the United Nations Convention on Road Traffic. The Convention, to which Australia is a signatory, provides for the holder of a driver's licence who is visiting another country, which is also a signatory to the Convention, to drive on the basis of the visiting driver's licence, for a period of up to twelve months.

An International Driving Permit is essentially a document which interprets the visiting driver's licence into some eight languages. It is therefore the driver's licence which authorises the visitor to drive, not the International Driving Permit. In the normal course of events, a person can only obtain an International Driving Permit in the country in which the person ordinarily resides and is licensed. An International Driving Permit can only be issued for a maximum period of twelve months and its issue is dependent on the person being the holder of a current driver's licence.

2. I have received no information to confirm that the media reports are accurate.

3. As an International Driving Permit is not in itself an authority to drive, there is no need to pursue this matter further. It is the responsibility of the companies involved in hiring vehicles to ensure that the person to whom they are hiring the vehicle to is appropriately licensed. The presentation of an International Driving Permit is only to be used to assist in the interpretation of an existing licence.

SERCO, PASSENGER TRIPS

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

1. How many passenger trips were made on Serco buses based at the Elizabeth depot during the periods—

(a) January 1996—December 1996; and

(b) January 1997—June 1997?

2. How many passenger trips were made on Serco buses based at the Adelaide City depot during the periods—

(a) January 1996—December 1996; and

(b) January 1997—June 1997?

The Hon. DIANA LAIDLAW: It should be noted that the data provided by Serco is based on operations undertaken by contract area rather than at the depot level. The following information is provided on this basis—

1. The number of passenger trips made by Serco buses under the Outer North contract during the periods—

- January 1996 to December 1996 was 306 983.
- January 1997 to June 1997 was 154 977.

2. The number of passenger trips made by Serco buses under the Inner North contract during the periods—

- January 1996 to December 1996 was Nil (the Inner North contract did not commence until 12 January 1997).
- January 1997 to June 1997 was 98 638.

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

1. How many passenger trips were made on the Belair railway line for the years—

(a) 1994-1995;

(b) 1995-1996; and

(c) 1996-1997?

2. How many passenger trips were made on the Noarlunga railway line for the years—

(a) 1994-1995;

(b) 1995-1996; and

(c) 1996-1997?

3. How many passenger trips were made on the Outer Harbour railway line for the years—

(a) 1994-1995;

(b) 1995-1996; and

(c) 1996-1997?

4. How many passenger trips were made on the Gawler railway line for the years—

(a) 1994-1995;

(b) 1995-1996; and

(c) 1996-1997?

5. How many passenger trips were made on the Grange railway line for the years—

(a) 1994-1995;

(b) 1995-1996; and

(c) 1996-1997?

The Hon. DIANA LAIDLAW:

LINE	1994—1995	1995—1996	1996—1997
Belair	821 476	788 865	817 916
Noarlunga	3 076 606	2 995 260	3 007 469
Outer Harbour	1 301 569	1 336 738	1 318 394
Gawler	2 658 325	2 716 691	2 689 402
Grange	666 287	614 197	613 347
Total Boardings	8 524 263	8 451 751	8 446 528

DRIVERS, ELDERLY

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

1. Have any proposals been considered for South Australia similar to the Western Australian Royal Automobile Club proposal that elderly drivers display 'S' plates on the windscreens of their cars to show they are senior drivers?

2. Will the Minister categorically rule out any suggestion the Government will introduce 'S' plates for senior drivers?

The Hon. DIANA LAIDLAW:

1. The Government is not considering a proposal of this nature for South Australia.

2. Yes. South Australian statistics show that elderly drivers have a low representation in overall crashes. I am not aware of any evidence that the use of special plates, such as you mention, would reduce this low crash risk still further. Research has shown that many elderly drivers tend to drive in such a manner as to minimise risk of an accident. Displaying special plates may increase their vulnerability to offensive or abusive behaviour from other drivers.

In addition, identifying elderly drivers in this way would be contrary to the intention of the South Australian Equal Opportunity Act 1984 as it relates to age discrimination. By contrast, the 'P' plates required of probationary drivers cannot be considered in this light as they are contingent on a minimum period of experience as a novice driver, irrespective of actual age above the legal minimum driving age.

The Office for the Ageing, South Australia, concurs with this information. The Agency's report, *Ageing—A 10-Year Plan for South Australia* (1996) aims to achieve full citizenship rights as a fundamental entitlement of the elderly. This vision is iterated in the Liberal Party policy statement on Aged Care, 1997.

TRAFFIC LIGHTS, NORTH ADELAIDE

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

1. Has the Department of Transport undertaken any studies into the problem identified in a recent survey by the Northern Adelaide Development Board concerning traffic lights designed to control the flow of cars but not allowing road transport enough time to cross major intersections?

2. If so—

(a) What recommendations have been made; and

(b) When will they be introduced?

The Hon. DIANA LAIDLAW:

1. Transport SA (formerly the Department of Transport) has not undertaken any studies as a result of this specific survey.

Transport SA officers are aware of the concerns raised by the Road Transport Industry and, as such, have requested industry representatives to identify the specific sites causing concern, with a view to making appropriate alterations. Meanwhile, to assist the mobility of freight vehicles during freight peak periods, consideration is being given to the coordination and phasing of traffic signals along key freight network routes.

Consideration is also being given to the use of new technology which can identify specific tagged vehicle types in the traffic stream and this may have application for the largest freight vehicles. However, Transport SA will need to determine the benefits of such technology for the overall traffic system, including its application for monitoring and measuring the performance of traffic operations as a whole.

Transport SA uses one of the best available adaptive traffic operating systems to minimise delay in the management of all users and vehicle types in the traffic stream. Accordingly, before changes can be made to any site, great care must be taken to ensure that there are no adverse effects at other locations where heavy vehicles previously experienced no delay.

2. Not applicable.

EMPLOYEE OMBUDSMAN

33. **The Hon. T.G. CAMERON:** Will the Government amend section 62 of the Industrial and Employee Relations Act 1994 'General functions of the Employee Ombudsman' be deleting 'other than proceedings for unfair dismissal' from subsection 1(e) as recommended in the Office of the Employee Ombudsman 1995-96 Annual Report? If not, why not?

The Hon. R.I. LUCAS: The Employee Ombudsman in his 1995-96 Annual Report recommends that he be given the right to represent employees in unfair dismissal claims. Section 62(1)(e) of the Industrial and Employee Relations Act, 1994 clearly states that the Employee Ombudsman's functions are, among other things;

'(e) to represent employees in proceedings (other than proceedings for unfair dismissal) if—

(i) the employee is not otherwise represented; and

(ii) it is in the interests of justice that such representation be provided;'

Section 62(1)(e) of the Act demonstrates that the clear intention of Parliament was to not include representation in unfair dismissal matters within the functions of the Employee Ombudsman when his office was established in 1994. The debate during the Industrial and Employee Relations Bill referred to the facts that—

(a) the approximate 1 200 unfair dismissal claims lodged under the State system during the 1994-95 financial year would drain the resources of the Employee Ombudsman's Office;

(b) a lot of attention would need to be given by the Employee Ombudsman to unfair dismissal matters at the expense of providing proper representation to employees in other industrial matters. This has obvious funding implications.

However, this Government is aware of the necessity to balance the needs of employers and employees in a dismissal scenario. In this regard, the Government believes that the termination of employment procedure set out in the South Australian industrial legislation is sufficiently simple and easy to use. It allows an employee to represent themselves at a conference with no detriment to their case. At the same time, the Act allows any person to represent an employee, so that if an employee requires someone for support and guidance, the Act accommodates their need.

Furthermore, I understand that if an employee requires advice, the Legal Services Commission provides free advice to employees. The Working Women's Centre provides a specialised service to women of this State who require representation in unfair dismissal hearings. I do understand that the Employee Ombudsman has made this recommendation so that men can have an avenue for representation.

The Government does not intend to adopt the recommendation of the Employee Ombudsman to widen his function to include unfair dismissal representation. To do so would be at the detriment of his other industrial roles.

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I bring up the third report of the Legislative Review Committee 1997-98 and move:

That the report be read.

Motion carried.

The Hon. A.J. REDFORD: I bring up the fourth report of the Legislative Review Committee.

PAPER TABLED

The following paper was laid on the table:

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

Corporate Affairs Commission—Report, 1996-97.

STANDING ORDERS SUSPENSION

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

That Standing Orders be so far suspended as to enable Question Time to be extended by one hour for the purpose of considering the Auditor-General's Report 1996-97.

Motion carried.

EMPLOYMENT

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a copy of the ministerial statement made in another place today by the Minister for Employment on the subject of employment and employment growth infrastructure.

Leave granted.

INTOXICATION AND THE CRIMINAL LAW

The Hon. K.T. GRIFFIN (Minister for Justice): I seek leave to make a ministerial statement on the subject of intoxication and the criminal law.

Leave granted.

The Hon. K.T. GRIFFIN: The interaction between intoxication (by drink and/or drugs) and responsibility for the

commission of a criminal offence has been controversial for a very long time. The debate was revived last year when a Canberra rugby player, Noah Nadruku, was sensationally acquitted by an Australian Capital Territory magistrate on a charge of assault.

There is nothing new in the matter being debated. The major problem is that it deals with the fundamental structures of the criminal law and the notion of criminal responsibility, and because it is complex it is easy to misrepresent the true position, exciting emotions and ignoring the principle. Changing the rules about intoxication means changing the rules for criminal responsibility generally, and this is no simple task. It must be recognised that, whatever is done, any change affects the central core building blocks of generally accepted rules of criminal responsibility that have been in place for more than a century. Any change must not increase the risk that a person who is actually not guilty may be convicted unjustly.

This is most simply illustrated by an example. A and B have a fight in the front bar of the hotel. Both are heavily intoxicated. In the brawl, B is stabbed and dies. The knife which dealt the blow is held by A. A is charged with murder. In order for the Crown to prove murder, it must show that A caused the death of B (and there is no problem here) and that A had the fault required for murder. To keep it simple for the purposes of the example, "fault" means that the Crown must prove beyond reasonable doubt that A intended to do the act which killed B and that A either intended to kill B or that A intended to cause B grievous bodily harm. That is true for all murders whether intoxication is present or not. It is the basic and fundamental definition of murder, as opposed to manslaughter or some other charge. If any of the ingredients are missing, for whatever reason, A cannot be proven to have committed murder.

In most cases, evidence of intoxication will be led by the prosecution and resisted or minimised by the defence, for the very sound commonsense reason that everyone, including a jury, knows that intoxication has a disinhibiting effect that makes the intention to do harm more likely rather than less. In most cases then, evidence of intoxication is likely to have an incriminating effect. In very extreme cases, however, intoxication, particularly when it is by a combination of drugs and alcohol, may generate evidence, particularly expert evidence, that the accused was so intoxicated that he or she could not have intended to commit the act of stabbing (in this case) or, more likely, could not have intended to kill the victim. In that same sense, to take a more trivial example, the drunk who staggers into you at a party does not intend to commit an assault, even though he or she does in fact assault you. Intoxication causes the "accident".

The problem posed by the severe case of intoxication is simply that the prosecution cannot prove beyond a reasonable doubt all of the elements of the offence that the law ordinarily requires to be proven. If, in the example that I have given, A does not have the intention required by the law, A is not a murderer. It is important to note that with homicide A may well be guilty of manslaughter instead, because manslaughter can be proven if the prosecution proves the causing of death by criminal negligence (or criminal unreasonableness) and, of course, the reasonable person is not so intoxicated.

It is this logic which led, as I have already indicated, to the sensational acquittal of the Canberra rugby player, Noah Nadruku last year. He was charged with assault. The magistrate found that he was so intoxicated that he had no intention to hit anyone. Essentially, he was unconscious at the time. We might say that is nonsense—how could he unconsciously hit the victim? That is an argument that the magistrate was in fact wrong. Maybe he was. That is why these cases are rare. Commonsense says that we would take a lot of convincing before coming to that conclusion. It may, after all, have been simply a problem of proof. It is worth recalling that the prosecution must prove the guilty intention beyond a reasonable doubt. It follows that intoxication is not a "defence". It is simply one way of denying that the prosecution proved the usual elements of the offence required by the law defining the offence in every case.

Since the Nadruku case, debate has centred on whether or not the law in South Australia should be changed. These cases are so rare that the DPP has no record of such an acquittal in South Australia. The shadow Attorney-General has said in Parliament that the Williamson case is an example. It is not, and this shows that he does not know what he is talking about. Williamson did try to run the intoxication argument. But he has failed, and been convicted by two separate juries. They did not believe it. It is reasonably common for the defence to try such an argument and it invariably fails. The trouble in that case has been caused by retrials based on misdirections by the trial judge—not by a Nadruku "defence".

If the issue has little or no practical significance in South Australia, why is it important? There are two reasons. The first is the Nadruku reason—symbolism. Commonsense revolts against the possibility that people who drink themselves into insensibility should escape the consequences of their actions, even if it is only a possibility. The second is the Williamson reason—the law must be such that judges can explain it to juries sensibly. But, overall, it must be kept firmly in mind that the justice of the law must be preserved as far as possible. We should not label people as murderers if they are not murderers. If we do that, we devalue the true labelling of the real murderers—those who really do intend to kill.

The two reasons conflict to some degree. The current law is contrary to the symbolism argument but, if we try to change it, we will inevitably make it much more difficult for judges and juries. Changing the logic of the law will inevitably lead to more appeals and more litigation. This is certain, based on the experience of other places which have changed the law. This debate is not new, and the exploration of the alternatives is now comprehensive.

If the law is to be changed from the current common law, it must be recognised that there is no simple or easy solution and that all options involve costs and compromises of general principle. Despite expert debate in the criminal law for a century, no person or law reform body has discovered any legislative solution which addresses public concerns about the so-called ‘drunk’s defence’. Some proposed solutions are better than others. None stands out as particularly desirable.

The change which is the most simple and the most principled is that which resembles the change made by the Australian Capital Territory. The effect is to define ‘self-induced’ intoxication, and say that a person accused of a crime may not deny that he or she committed the act or omission which constitutes the crime with which he or she is charged, or the fault with which it is done, simply because he or she was intoxicated at the time. That means that, as in other Australian and overseas jurisdictions, an accused person can use self-induced intoxication to deny that he or she had the intention to cause a prohibited result of conduct. So, for example, as elsewhere, an accused person can deny that he

or she intended to cause the death of another person if charged with murder.

The Government has decided, in the light of the debate, to have a Bill prepared to reflect that model and to circulate it widely throughout the community with an appropriate discussion paper and explanatory statement for consultation before, hopefully, a Bill can be introduced in the budget session. It should be recognised that because this issue raises matters of considerable importance the Government wants all those who have an interest to have an adequate opportunity to consider such a draft and to comment. The shadow Attorney-General and member for Spence, Mr Michael Atkinson, has introduced a private member's Bill on the subject in the House of Assembly. The Bill repeats a Bill introduced by Mr Atkinson in 1997 and then defeated in the House of Assembly. The Bill was originally drafted by Parliamentary Counsel for the Parliamentary Committee on Self-Defence in 1990. My predecessor, Hon. C.J. Sumner, MLC, chose not to proceed with it, I suspect because it is fatally flawed.

The member for Spence stated in his second reading speech that all Australian jurisdictions except South Australia and Victoria have removed the so called 'drunk's defence' by statute. That is not the case. There is no such defence. In any event, self-induced intoxication can lead to the acquittal of the accused in every State and Territory in Australia. It is merely a matter of the crimes for which it is available. He also stated in his second reading speech that this Bill replaces the Australian common law with the English, Canadian and United States position. That is not so.

His is an option which has never been canvassed before and which has generated no expert support since it was suggested. There are good reasons for this. The approach contained in the Bill is fatally flawed, unjust and unworkable. In summary, the Bill should not be supported, because it reverses the onus of proof for guilt in all prosecutions where any degree of intoxication at all is suggested; it does not distinguish between intoxication by one drink at one extreme and intoxication so gross as to affect the capacity to act at the other extreme; and it imposes liability for all offences on the basis of mere negligence, even where guilt for the offence would usually require intention, knowledge or recklessness.

Comments on the Bill received from the Chief Justice, the Legal Services Commission of South Australia and the Law Society Criminal Law Committee endorsed by the Law Society Council all conclude that the Bill is unacceptable and fatally flawed and ought to be rejected. Therefore, the Government will not be supporting that ill-considered Bill, which is incapable of amendment, but will be approaching the issue constructively, in the manner to which I have already referred.

SOUTH-EAST WATER RESOURCES

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement made in the other place yesterday by the Hon. Dorothy Kotz, Minister for the Environment and Heritage, about South-East water resources.

Leave granted.

WEST BEACH BOAT HARBOR

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a short statement in regard to the West Beach boat harbor.

Leave granted.

The Hon. DIANA LAIDLAW: Yesterday in my response to a question asked by the Hon. Mike Elliott on the West Beach boat harbor I indicated that the Development Assessment Commission gave approval in terms of the planning processes and that 22 conditions were established. I seek to correct that statement and advise that the Development Assessment Commission, after considering various submissions by the Coast Protection Board and various other authorities, concluded that the proposal warranted planning approval and recommended that I approve it subject to conditions. I subsequently approved the proposal subject to 22 conditions. I can provide a copy of those conditions.

The PRESIDENT: Before calling on Question Time, I want to make clear that when we get to the second part of Question Time, which will involve directly questioning Ministers on the Auditor-General's Report, members must preface their questions with a direct reference to the relevant page in the Auditor-General's Report. We do not want to waste too much time while Ministers find out exactly what members are referring to in the report. If we have direct page references it will save time in the provision of answers.

QUESTION TIME

MOTOR ACCIDENT COMMISSION

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Motor Accident Commission.

Leave granted.

The Hon. CAROLYN PICKLES: In his ministerial statement yesterday—

The Hon. Diana Laidlaw interjecting:

The Hon. CAROLYN PICKLES: No, it is about what you feel about it as Minister for Transport. We know what he thinks about it. In his ministerial statement yesterday the Premier indicated that the Motor Accident Commission was up for a review as a potential sale item. My questions to the Minister are:

1. What are the implications of the sale of the Motor Accident Commission for compulsory third party insurance and motorists in this State?

2. What guarantees will the Minister give on behalf of the Government that motorists will not be adversely affected by increases to the cost of third party insurance premiums caused by any potential sale of the Motor Accident Commission?

3. Does the Minister support the ongoing public ownership of the Motor Accident Commission?

The Hon. R.I. LUCAS: The question rightly should be directed to me as Treasurer. The Motor Accident Commission reports to me.

The Hon. Carolyn Pickles: I thought she might care about the motorists in this State.

The Hon. R.I. LUCAS: We all care about the motorists in this State. We are a very caring Government. As the Premier indicated yesterday in his ministerial statement to the House of Assembly, whilst the Government has taken

decisions in relation to the sale of ETSA and Optima, it has not taken any decisions in relation to the sale of the other assets listed for consideration in the ministerial statement and that includes the Motor Accident Commission. So, there is no Government view. Certainly, I have no conclusive view as the Treasurer of South Australia.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: The Government will consider it. The Government is being open about it and saying that it is prepared to share with the Parliament and the people of South Australia the fact that we are prepared to look at whether or not we should continue with public ownership of those assets or whether we should consider their sale. If the Government on the other hand had investigated this internally and should, heaven forbid, there be a leak from the public sector somewhere indicating that we were looking at it, there would be screams of outrage from the Opposition that we had not been open and honest. Here we are being open and honest and they are still screaming. You cannot win in this business. We try our hardest to please this Opposition, but we cannot win.

The Hon. L.H. Davis: You know John Quirke would like it.

The Hon. R.I. LUCAS: Yes. Let me assure the Leader of the Opposition that the heartfelt concern she has for motorists is shared by the Minister for Transport and by me as Treasurer—

The Hon. K.T. Griffin: And the Attorney-General.

The Hon. R.I. LUCAS: And the Attorney-General. We are known as warm and caring Ministers of a warm and caring Government, and we would share those concerns. The Government will consider all those issues before it makes any decision. What you have to do with all these assets is compare the facts of the current situation with the possible options. We have not done that in this process and until we do we will not be able to indicate the Government's position.

ELECTRICITY, PRIVATISATION

The Hon. P. HOLLOWAY: My question is directed to the Treasurer. Given the previous Treasurer's budget speech which states, 'Improvements in the performance of Government-owned businesses, particularly ETSA Corporation, have exceeded expectations,' and given the loss of revenue to the Government that would result from the sale of ETSA and Optima, what minimum price does the sale need to achieve for there to be a cash-positive return on interest savings to the Government?

The Hon. R.I. LUCAS: I hope that the Hon. Mr Holloway does not offer to sell my house on the open market.

An honourable member: By auction.

The Hon. R.I. LUCAS: By auction, yes. Working on that basis the Hon. Mr Holloway would be saying, 'We are going to public auction but I expect to get $140 000. What do you think the bidders will do?' He should have a word to the Hon. Terry Cameron about selling assets. The Hon. Terry Cameron at least understands a little about financial issues: the Hon. Mr Holloway does not. The simple reality is that if you are in the business of selling assets, whether it be your house, bike or whatever, you do not indicate the price you want publicly. If you are selling assets like this you do not indicate what you are expecting to get, because you might be pleasantly surprised. This morning I was reading the front page of the *Financial Review*—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The front page of the *Financial Review* stated that it thought the assets might be worth $4 billion to $5 billion, but by the time it got to the back page Chanticleer had it up to $6 billion. So, in the space of 50 pages—

An honourable member interjecting:

The Hon. R.I. LUCAS: Was he? We have indicated that we are not in the business of publicly putting a possible sale price on these assets. We have had the best advice that we can get and this advice has indicated the ballpark figures that might be recouped in the market at the moment. Again I refer the honourable member to the back page of the *Financial Review*. I think the headline is 'Olsen gets his timing right' in terms of the sale of the assets and maximising the value to taxpayers of those assets. I cannot and do not intend to indicate the potential sale value of these assets.

In relation to the impact on the budget, and as the Premier indicated in his press conference yesterday, what the Government said last year is that the view of both the Premier and the former Treasurer was that, when one offset the potential sale value which had been mooted for electricity assets and the stream of income which we were getting, one was roughly in the same ballpark and therefore there was not a significant potential positive impact on the recurrent budget.

What has changed since then are two things. From reading the *Financial Review* today, I am not endorsing any of those estimates—although a more accurate way of putting it is that I am not going to indicate publicly what the assets might be worth. That is a more accurate way of putting it. If the assets were to be of that order of magnitude, clearly the interest savings to the State budget would significantly outweigh in a very healthy fashion the revenue streams from the current assets—that is assuming that the current $200 million (plus or minus) can be guaranteed to continue into the future in forward estimates for a national electricity market.

The simple reality of what the Auditor-General and a number of other commentators have said is that no-one can guarantee that ETSA and Optima, competing in a national electricity market, can continue to fund our State budget revenue streams of plus or minus $200 million. In fact, 40 or 50 pages of the Auditor-General's Report highlight the risks associated with ETSA's and Optima's competing in the national electricity market.

Having looked at the matter, our judgment is that we cannot be assured that ETSA and Optima can continue to provide plus or minus $200 million a year for our State budget. So, two factors have changed significantly: first, the fact that the revenue stream is likely to decline significantly—and I know this is of great interest to the Hon. Sandra Kanck—because of the risk and the effects of the national electricity market; and, secondly, as Chanticleer has indicated today that, because of the potential value now is the right time to sell electricity assets to maximise their value, the interest saved on that side of the equation will be much healthier than it might otherwise have been to outweigh the revenue streams that we might have had.

With all that, we see a very attractive option for the State Government in terms of minimising its risk and reducing the debt for future generations—our children and grandchildren. We see the prospects which the Premier has indicated that potentially as we enter the new millennium we might even be able to leave an almost debt-free South Australia to our children and grandchildren. What greater gift could any

Government leave as we enter the new millennium: to remove almost completely the level of the mortgage in South Australia?

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer a question about the sale of ETSA.

Leave granted.

The Hon. T.G. ROBERTS: In the Treasurer's explanation and his answer to the Hon. Paul Holloway there were some indications that it would be difficult to get a sale price or a ballpark figure for ETSA. It is a well known fact that for a multitude of reasons Governments have used water and electricity services to subsidise social services and social justice issues. In some cases, electricity concessions are used to try to garner support to attract industry into States. Each State has gone onto the auction block from time to time to offer cheaper electricity or water. It has been a legitimate form of negotiation over the years for the States to get into that game. It is difficult to put a real price on the production, distribution and sale of the commodity. The statement issued yesterday by the Premier says, in part:

In privatising our power assets there will, of course, be built-in safeguards for consumers, and over the next few days all South Australians will receive information from us on our plans and how they will be affected. A 1300 information line is also being set up to ensure that every South Australian with a query or a concern about their power can be reassured. Safeguards in the process include: those families who need help at present with power payment concessions will continue to receive them under private ownership—

we agree with that, and of course past Governments have practised that—

country power users will continue to receive subsidised power—

we on this side of the Council agree with that—

any job losses will be through either natural attrition or voluntary redundancy—there will be no forced redundancies; an independent regulator will be appointed to ensure power is delivered at the best possible cost to the consumer, and I take this opportunity to say that our research indicates that the fierce competition between private suppliers always results in prices dropping.

In the light of the Treasurer's previous answer and the Premier's statement—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: Yes—that the people of South Australia will be well looked after in relation to the safeguards that are contained at least in that statement—that is, if we can believe that those promises will be kept, and the position is then at variance with what the realistic price will be—does the Treasurer agree with the Premier's claim that a sale price of $4 billion is achievable on the sale of ETSA and Optima, and is this price compatible with the assurances given by the Premier to maintain community service obligations, subsidise country users of power, ensure all job losses are voluntary and through natural attrition, and reduce prices, etc.? Will these promises be able to be honoured and the price range kept?

The Hon. R.I. LUCAS: I work on a very simple principle: whatever the Premier says I agree with. He said that, and I agree with the Premier 100 per cent. I thought that was an excellent speech, sections of which the Hon. Terry Roberts read in this Chamber. Whilst I always agree with what the Premier says, I do not always agree with the interpretation that the Hon. Terry Roberts might place on his statements. The Premier's words are clear and unequivocal (and he repeated them in the press conference last evening): that we are not going to put on the public record an estimate of what we believe might be the value.

The reference to $4 billion in the speech yesterday was carefully quoted from and sourced to an IPA research document in terms of its own analysis of the electricity industry in South Australia. That is a judgment call for the market eventually to take as to whether they agree with the IPA's assessment or the private advice that we have taken as a Government, or whether they agree with Chanticleer or the front page of the *Financial Review*. Ultimately it will be a decision for the marketplace to take.

Regarding the guarantees, the Premier has given those undertakings. Last evening, he repeated a number of those undertakings to representatives of the unions that attended those meetings. The Premier and I, as Treasurer, will work through our process for the coming 12 months or two years to put in place all those commitments.

TOBACCO ADVERTISING

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about tobacco advertising.

Leave granted.

The Hon. IAN GILFILLAN: Many members of this Chamber and large sections of the general public and the medical profession particularly regard as one of the significant victories for health in our community the banning of tobacco advertising. I was therefore surprised yesterday whilst walking through one of the main streets of the CBD of Adelaide to see on the footpath an A-frame displaying a statement to the effect 'See Our Attractive Cigarette Prices'. Below that was a list of the makes of cigarettes and their various prices.

There was no health warning on that sign and I assume, although I did not investigate it closely, that there must have been a shop nearby, possibly quite close by, selling tobacco. I sought to determine whether that was an infringement of the legislation or regulations as they currently exist because my previous understanding was that this would have been a clear case of advertising a product in a manner in which the earlier moves for legislation and those intending were seeking to prohibit.

Some subsections in section 40 of the Tobacco Products Regulation Act possibly deal with this form of advertising and provide that a tobacco advertisement of a prescribed kind that is displayed at a prescribed distance from a shop or warehouse where tobacco products are offered for sale would be free of the restraints applied by the general intention of section 40. In other words, that would have been a legal form of advertising.

Without making a judgment on whether or not I approve of that, I read the regulations to determine what was, in fact, a prescribed kind of advertisement and what was the prescribed distance. To the best of my research with the limited resources at my disposal, I found that there is no regulation prescribing either the type of advertisement or the distance in this particular case. My Leader, Mike Elliott, posed the interesting question that if there is no regulation does it mean, in fact, that there is no exemption and not only should there be no advertising outside but also that it would cover the advertising inside a shop. I hope the Minister can enlighten me on that. My questions are:

1. Does the Minister agree that an advertisement of the type I have outlined would appear to be an offence or in contradiction to the legislation or, if not, to the spirit of the legislation?

2. If there are no regulations actually proscribing that form of advertisement, when does the Government intend to act?

3. What inspection and enforcement measures are available or in place to ensure that the sales output of tobacco outlets are being supervised to comply with advertising legislation?

The Hon. K.T. GRIFFIN: I am not able to give any opinion on it. I have not looked at the Act for a long time. The Act is committed, as I recollect, to the Minister for Human Services, who has the responsibility also for enforcement of the Tobacco Products Control Act. There is a council responsibility in relation to signs on footpaths, but I do not think that is the substantive issue. The substantive issue is the form of the advertisement on that sign. All I can do is refer the matter to the Minister for Human Services and bring back a reply.

LOCAL GOVERNMENT AMALGAMATIONS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Local Government, a question about council amalgamations.

Leave granted.

The Hon. J.F. STEFANI: Members would be aware that through legislation the Liberal Government provided the mechanism for council amalgamations with the objective of providing more efficient local government and savings to ratepayers. My questions are:

1. Will the Minister provide a list of metropolitan councils that have amalgamated?

2. Will the Minister also provide a list of amalgamated metropolitan councils that have achieved a reduction in rates in real terms?

3. Will the Minister provide a list of metropolitan councils that have applied for an exemption from the rate freeze?

4. Will the Minister obtain and provide details of the packages paid by metropolitan councils to their respective chief executive officers?

5. Will the Minister obtain and provide details of all capital expenditure on alterations and additions to metropolitan councils' offices undertaken since the announcement of the amalgamation?

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

ELECTRICITY, PRIVATISATION

The Hon. T. CROTHERS: I seek leave to make a precied statement prior to directing some questions to the Minister representing the Premier on the subject of the impact of the sale of the Electricity Trust of South Australia.

Leave granted.

The Hon. T. CROTHERS: Yesterday the Premier issued a press statement which, amongst other things, indicated that the Government was now disposed to sell off the Electricity Trust. This sale just announced is, of course, directly contrary to what has always previously been this Government's position on such a sale. Reports in the press confirm that huge deposits of coal and iron ore exist in South Australia's Far North. These are held by Meekatharra Minerals. It is a fact—also indicated by occasional press reports—that because of the Hilmer report Meekatharra Minerals is also considering the establishment of a steel mill in conjunction with a massive electricity generating station on site, which is, I believe, many hundreds of kilometres to the north of Port Augusta. With the foregoing in mind, I direct the following questions to the Treasurer:

1. If the Electricity Trust sale goes ahead and the trust passes into private hands, what impact will this sale have on the power generating project and the steel plant project of Meekatharra Minerals going ahead?

2. Given that the Meekatharra project is now common public knowledge, how will that project affect the sale price of the Electricity Trust, presuming that the Government presses ahead with such sale?

3. Will the Government totally use all the funds generated by this sale and other sales to retire the State's debt?

4. Has the Government any intention of using funds generated by this sale and other sales of publicly owned assets to fund the building of the Adelaide to Darwin rail link?

5. How many other electoral promises does this State Government intend to break?

The Hon. R.I. LUCAS: I will answer the last question first: the people of South Australia, and indeed the Hon. Trevor Crothers acting on their behalf, will be able to make a judgment over the next four years in relation to the Government's commitment to implementing the policy package it took to the last election, and in the end we will be happy to be judged by that commitment when we go to the people in either 2001 or 2002.

In relation to question No.3, certainly it is the Government's intention that substantially, anyway, the proceeds of the sale will be used to retire State debt. We see that as obviously having a flow-on benefit—as I indicated earlier; I will not repeat the argument—to the annual recurrent State budget, and that will enable us to then spend that money on other services, whether capital or recurrent, because we will not be spending the money on annual interest payments of nearly $2 million a day out of our recurrent budget.

The Premier yesterday, in an illustrative fashion, indicated some of the needs within the public sector in South Australia—in the hospitals and education areas. He talked about the radio network for the CFS, the MFS, the ambulance service and a range of other public sector needs. The Government will also have to find expenditure within its budget over the next X years, whenever that might be, if there is a decision ultimately for successful investment in the Adelaide to Darwin rail link, together with a range of other pressing needs in the capital works program as we look to the future. So, there will be an ongoing benefit in terms of some of those capital works needs that the honourable member has identified. In relation to questions one and two on Meekathara, I will need to take advice on that before I respond to the honourable member. I am happy to do that and to bring back a reply.

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Treasurer a question about electricity reform in South Australia.

Leave granted.

The Hon. L.H. DAVIS: I have noted with interest the Government's commitment to privatise the electricity industry in South Australia. I noted with particular interest in December that the Auditor-General's Report, which of course was tabled after the last State election, included some detailed

comments on the risks to the Government associated with implementing the COAG reforms and also participating in the national electricity market. In his remarks the Auditor-General noted in particular that there were shareholder, competitive, compliance, regulatory and industry risks associated with the electricity industry in South Australia participating in the national electricity market. In one particularly relevant paragraph he noted:

> Not only do the ETSA corporations and Optima represent a significant proportion of public capital in South Australia, capital which should be preserved, but the 'downside' for the South Australian public is significant as they, through the Government, stand behind the financial viability of these entities. The conferral of Government guarantees on publicly owned commercial businesses places a greater obligation on the shareholder, the Government and its representatives for effective performance. The effect that the collapse of the former State Bank of South Australia had on the State's finances must never recur.

That comment has particular potency in light of the Government's announcement yesterday. I also note with interest that in Tuesday's Australian *Financial Review* (17 February) the President of the National Competition Council, the well respected Mr Graeme Samuel, warned that States could actually lose out on $16 billion in compensation payments if they faltered in their commitment to regulatory reforms. He noted:

> . . . it is worth remembering that $16 billion can buy a lot of hospital beds, classrooms and police.

Finally, I refer to this morning's *Financial Review* (and, without doubt, this is the pre-eminent financial journal in Australia) in which Ivor Rees, who is Chanticleer, a highly respected financial journalist, said:

> His—

referring to Premier Olsen—

> financial market timing instincts would do any stockbroker or investment banker proud, judging by his announcement yesterday that South Australia was moving to privatise its electricity industry.

Members interjecting:

The Hon. L.H. DAVIS: You may not like to hear it, but I think it will do you good. It is not the sort of journal that members opposite, apart from the Hon. Terry Cameron, would normally read, which is why I am taking the care and trouble to do it for you. He continues:

> Assuming that Olsen is able to pull the right political levers—

The Hon. Carolyn Pickles interjecting:

The Hon. L.H. DAVIS: That is about the level at which I would expect you to operate. He states:

> Assuming that Olsen is able to pull the right political levers to get his privatisation Bills through Parliament, the South Australian Electricity industry will come to the market while international electricity utilities are still hot to buy Australian power assets.
>
> Olsen's privatisation announcement is impeccably timed to coincide with the disarray within the New South Wales Labor Party over electricity privatisation. As Labor troglodytes and reformists spend their days trying to rip the tripes out of each other, Premier Bob Carr is totally hamstrung. The internecine battles in the New South Wales ALP mean that, even if the reformists win, no electricity asset in that State will be sold this side of Christmas 1999.
>
> Hitting the market when there is an excess of buyers and an under-supply of assets is not the only appealing aspect of Olsen's timing. The global interest rate cycle is working strongly in his favour also, with expectations that the Asian meltdown will hold interest rates close to or near the bottom of the 30-year cycle.

My questions to the Minister are as follows:

1. Does the Treasurer have any comment to make on the Auditor-General's observations about the risks involved for the Government in implementing COAG reforms and entering the national electricity market?

2. Does the Treasurer also have any comment to make about the decision to open up the sale of ETSA and Optima at this time in view of the timing advantages commented on in the Chanticleer article this morning?

3. Can the Treasurer advise the Council of any private advice the Government has received with respect to the timing and maximisation of the moneys which will be received from any such sale?

The Hon. R.I. LUCAS: Again, I am indebted to my colleague the Hon. Mr Davis—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: And the Hon. Terry Roberts for his help just then for canvassing and raising most important issues for debate in the Council. I must admit that for all members who lived through the State Bank period, when the 'SB' words are mentioned in the Auditor-General's Report, I think it behoves all of us to read very closely what the Auditor-General is saying. He mentions the 'SB' words—State Bank—on two or three occasions in his 40 or 50 page summary of risks confronting South Australia. The Hon. Legh Davis has referred to one of those where the Auditor-General states:

> The effect that the collapse of the former State Bank of South Australia had on the State's finances must never recur.

That is a timely warning from the Auditor-General. The Auditor-General is fearlessly independent, as all will know in this Chamber, and it is not in his particular interests to beat up a fever pitch about the risks in the national electricity market unless he genuinely believes them to be the case and unless he would genuinely like all members in this Chamber—whether they be Labor, Democrats, No Pokies or the Government—to look closely at what he has had to say and for members to make their own judgment. Are members going to ignore the clear warnings from the Auditor-General? Many members of this Chamber have said that when the warnings about the State Bank were being floated around—admittedly not by the Auditor-General at that stage—members said, 'We did not know. No-one told us.' Well the wood is right on Mike Rann and the Labor Party in relation to this issue because the warnings are clear and explicit. The warnings come from no less independent an authority than the Auditor-General and he is warning Mike Rann, Carolyn Pickles and all members of the Labor Party—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: The Hon. Trevor Crothers should listen to the Auditor-General. You have to make your judgments. I have heard in the past 24 hours claims such as 'Why sell an asset making huge profits?', yet I heard Mike Rann and John Bannon say the same thing about the State Bank. Just before it went down the tube, the Hon. Mike Rann attacked members of the Liberal Party and asked, 'Why would you sell the State Bank? It is making these profits and giving this money back to the State budget.'

There are quotes. I will not bore you with them today, but we will share them with you at a later stage. There are quotes asking, 'Why would you sell this asset?' Within 12 months of Mike Rann making those claims—the same questions I have been hearing in the past 24 hours when he asks why we would sell this asset when it is bringing in this amount of money to the State finances budget—the first $1 billion bale-out of the State Bank started flowing through the State system and we ultimately ended up with a $3 billion debt. The warnings are clear—they are explicit—and, if you stop this sale from proceeding, none of you will be able to hide under your mushrooms or your blankets at night or wherever you go and hide when you leave this Chamber and say you had not been warned about the potential risks of the national

electricity market and the public sector operation in the national electricity market, which is the key issue.

The timing is critical. We are mindful of the debate that is going on in New South Wales at the moment. Depending on what ballpark you listen to, there are $20 to $30 billion worth of assets in New South Wales. I want to share one quote with the Hon. Legh Davis and other members of this Chamber which I have with me at the moment about how another Government of a different political persuasion is viewing exactly the same risk factors. I quote Michael Egan, the Labor Treasurer in New South Wales—also an Upper House Treasurer—as follows:

> The privatisation of New South Wales Electricity is a bold plan for a Labor Government looking forward to the new century. The choice for Government is whether it regulates and oversees this industry to secure good social and economic outcomes or whether it owns the industry, thereby risking billions of dollars of taxpayers' money in commercial business enterprises. As I see it, if dogma defeats our overriding purpose of achieving a more protected and secure community, then dogma must go. Public ownership does not make sense if it actually defeats our purpose of providing better and more fairly shared public services and new social and economic infrastructure that meets contemporary needs.

Over the coming days we will be able to share with members more of the thoughts and views of Bob Carr and Michael Egan, but that quote summarises exactly the reasons why the New South Wales Labor Government—not an ideological bedmate of this Government in SA—has had exactly the same form of advice about the risks of public ownership with the national electricity market and wants to make exactly the same decisions as the South Australian Government has just announced in the past day.

The honourable member commented about appropriate timing and advice in terms of sales, given the dilemmas in New South Wales, as Chanticleer has indicated. Certainly, some of the advice available to the Government is consistent with Chanticleer's advice, which indicates that, at the moment, if the Government were to move decisively—with the support of the Parliament we hope—in the interests of the taxpayers of South Australia to sell our electricity assets, we would maximise the sale value of those assets and the amount of money we would have available to spend on schools, hospitals and other much needed community assets and infrastructure here in South Australia.

GOVERNMENT PERFORMANCE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Treasurer, both in his own capacity and representing the Premier, about the Government's loss of ability to govern.

Leave granted.

The Hon. M.J. ELLIOTT: The Australian Government is one of 29 OECD countries presently involved in negotiations on an international agreement—the multilateral agreement on investment—which is aimed at freeing up international investment. Very recent South Australian experience has shown that signing these sorts of agreements can have huge ramifications on our local economy. Having agreed to a competition policy, South Australia signed the competition code and now we find ramifications which the Premier is now using to justify decisions made (he says) in recent days.

Yesterday in a briefing with the Premier I was told that there was a threat that $1 billion of funds could be withdrawn from the South Australian Government if we do not comply with the ACCC's wishes on the sale of our electricity assets. What I found even more staggering—and that was staggering enough—was a claim that the ACCC has the view not only that we should privatise the Casino but also that we should have no right to stipulate that there be only one; that we should put no limit on the number of casinos, because that would be anti-competition.The implication of all that is that not only has the State apparently signed away its capacity to have significant influence in relation to economic matters in the State—

An honourable member interjecting:

The Hon. M.J. ELLIOTT: I said, 'the State'—it was done by the Labor Party with the concurrence of the Liberal Opposition. Not only has the State apparently signed away rights in terms of economic policy but it appears that the ACCC also has the view that we have signed away any rights we had in relation to social policy as well. I am not sure who has the power to regulate, because the Constitution does not give it to the Federal Government. The multilateral agreement on investment (MAI) will result in protection for international investors at the expense of national governments and their citizens. The powers of this agreement would override laws made at Federal and State levels on issues ranging from foreign investment to human rights safeguards, environmental and consumer standards and native title.

The powers given to foreign investors under MAI are wide ranging, and will effectively take away powers from Australian Governments, including our State Government. Basically, under MAI, any law made by an Australian Government which impacts on foreign investors' freedom to trade will be banned. As a signatory to the North American Free Trade Agreement, Canada has had a taste of what MAI would be like. The Canadian Government is currently being sued by an American company because it disallowed the importation of what it deemed to be a dangerous toxic chemical. Even though the Canadian Government made the decision to protect its citizens, the foreign company is suing the Government under NAFTA on the basis that it will lose potential trade and thus profits. The powers of MAI extend far beyond this example. I am told that public expenditure on health and education would be exposed to the MAI rules on the basis that Government expenditure could be seen to be discriminating against foreign investors by thwarting their opportunity to invest in our public schools and hospitals.

Only yesterday the ramifications of signing binding agreements was finally brought home to South Australians, with the national competition policy agreement being blamed for the need to sell our public assets. I am not saying I concede the argument, but that is the claim that is being made. With these developments at State and Federal level, there is a great deal of concern about whether we will ever be able to work for citizens when we are elected to Parliament.

My questions to the Minister are: in the light of South Australia's experience with the fall-out from the national competition policy agreement, what is the Government's view of the Australian Government's plan to sign the MAI agreement? Has the State Government expressed a view to the Federal Government? Does the Treasurer have any general comments in relation to the impact of these agreements both at the State and national level?

The Hon. R.I. LUCAS: The honourable member has raised a most important question. We have one more minute of normal Question Time, so I will not be able to do it justice. It is an important issue and I will bring back a response. Certainly the State Government has some concerns with any Federal body that might seek to dictate social policy in such

areas as, for example, the number of casinos we have. The MCC and the ACCC may well argue that we can have only one casino if we wish, but they will just withdraw certain payments. They would argue the niceties and the technicalities and say, 'We are not actually stopping you, but we will just take away your money.' The reality is that hurts us and the taxpayers of South Australia as much as the alternative decision. The Government is concerned about those sorts of issues. I am not familiar with the detail of the MAI agreement. I will take advice and bring back a more detailed response for the honourable member as soon as I am able.

The PRESIDENT: With members' concurrence we will move on to questions relating to the Auditor-General's Report for the next hour. I will call members in the same sequence as for Question Time.

ETSA DIVIDEND

The Hon. P. HOLLOWAY: My first question relates to the ETSA dividend that was part of the last budget. The Auditor-General in his Audit Overview, Part A2 at page 9 says:

> Of crucial importance is whether the means by which forecast outcomes are achieved can be sustained in the long-term and not be the result of continuous balancing from one-off adjustments.

As the Treasurer would know, the concept of an underlying deficit or surplus is a deficit or surplus that excludes the effect of substantial one-off items that are not of an on-going nature. Does the Treasurer agree that the proceeds of a major asset sale, the return of capital from a Government business enterprise or a special dividend from a Government business enterprise on account of some extraordinary item are all examples of transactions that should be excluded in determining whether there is an underlying surplus or deficit? If so, how does the Treasurer justify the Government's attempts in the current budget to make it appear that the Government had achieved a surplus by not showing the $77 million ETSA dividend as an abnormal item?

The Hon. R.I. LUCAS: Certainly in relation to the first aspect of the honourable member's question about asset sales, I will have the matter checked. My understanding of the previous Treasurer's position is that it was very much in accord with the sort of views the Auditor-General is putting, namely, that asset sales were used to pay off the State's debt. The State debt was heading towards $9 billion or so and we now have a State debt of the order of $7.4 billion. My understanding—and I will check this—is that virtually all of those proceeds from the asset sales have been off-set against the level of State debt, or our mortgage, and have not been used as a one-off payment to seek to balance the annual recurrent budget.

I understand that that was not always the case under the accounting policies of previous Labor Governments, under Premier John Bannon in particular and supported by the Hon. Paul Holloway, where on a number of occasions to my memory such a purist approach to accounting practices that the honourable member is now suggesting was not necessarily followed by the Hon. Paul Holloway when he wholeheartedly supported the accounting practices of John Bannon and Labor Treasurers.

I will take specific advice in relation to the accounting treatment of the $77 million payment from ETSA. As a general principle, as a Government and as Treasurer, in the development of our four year financial plan, to be released in May as part of our first budget, in effect we are aiming for a sustainable budget for the four years and we are not looking for one-offs to balance. If we go back to the accounting practices that John Bannon and Paul Holloway used to engage in, every June SAFA was used as a milk cow and one year some $400 million or $500 million, from recollection, was pumped in to help balance the budget. All Governments, when it comes to the end of year reconciliations, make these sort of end of year adjustments to broadly bring in budgets in accordance with the predictions or estimates.

The Liberal Government did not engage in that level of finessing as did the Bannon Government, but over the next four years we will try to have a sustainable budget in balance. If we are able to reduce our debt levels through significant asset sales we do not have to reap huge annual surpluses to pay off our State debt but can broadly have a balanced budget that is sustainable, can pay our employees, and can deliver our services as efficiently as we can but in a sustainable way without having to have one-off payments. I will take further advice on the accounting treatment of the $77 million proceeds of the ETSA lease arrangement. The only other point I can make is that the proceeds this year, from memory, estimated from ETSA and Optima to the budget were some $220 million to $230 million, of which about $70 million is a result of this transmission lease payment.

In relation to other debates we have been having with Sandra Kanck and Co. we have to bear that in mind in terms of any estimates as to what an ongoing sustainable level of dividend and tax flow might be to the State budget from both ETSA and Optima if we were to continue them in public ownership.

SUPERANNUATION

The Hon. P. HOLLOWAY: My next question relates to superannuation funding and to the Auditor-General's Overview Part A2, and page 18 in particular. After the Audit Commission had reported in 1994 much panic was created about unfunded superannuation liabilities. In his report the auditor points out:

> The level of superannuation funding provided for the 1997-98 budget is substantially less than in 1993-94.

That is from Labor's last budget. Does the Treasurer accept the Auditor-General's findings that under his Government funding to cover future superannuation liabilities has fallen, not increased, by $212 million in real terms between 1993-94 and the latest budget?

The Hon. R.I. LUCAS: I do not accept the honourable member's interpretation of both the facts and what the Auditor-General is saying. As a result of the Audit Commission the then Treasurer and State Government (I will go back into the record and get the detail of exactly what was said at the time), my recollection of the statements the Treasurer made four years ago was of the order that we had unfunded liabilities in relation to superannuation and the State Government made a commitment to funding those liabilities over a long period, of the order of 30 years. From memory of discussions with the then Treasurer, other State Governments have sought to fund their liabilities for superannuation over longer periods—up to 35 or 40 years. Clearly it was a matter of some debate within the Government. If you fund it over 40 years the annual call on your budget is not quite as significant and you are able to spend more of your money on schools, hospitals, teachers and nurses. However, the Government took a position that it wanted to fund its superannuation liabilities more quickly than some other

States and, as I said, my recollection was that it was of the order of 30 years or so.

I think the honourable member referred to a 1997-98 and a 1993-94 payment, and some of those payments go up and down. What the honourable member needs to do is determine whether or not the State Government is on track in relation to its commitment to fully fund its superannuation liabilities within, as I said, the 30 year time frame. The advice that I have been given is that up until this budget the Government was broadly on track in terms of funding those liabilities, and it is certainly not tracking at some $200 million below the levels it ought to be on an ongoing basis to fund superannuation. I am happy to get the original commitments made by Stephen Baker some four years ago and also to provide the honourable member with a summary of whether or not the Government is on track with those particular commitments that Stephen Baker gave four years ago.

The Hon. P. HOLLOWAY: At page 15 of Audit Overview A.2 the Auditor casts further doubt on the claim that the Government has achieved a surplus and says:

> . . . the reduced superannuation liability funding. . . cannot be regarded as representing an 'underlying' improvement in the underlying deficit position. Rather it is a discretionary decision to make contributions consistent with achieving forecast outcomes.

At page 37 of Audit Overview A.2 the Auditor says:

> . . . in recent years in this State the amount of superannuation funding contributions each year has been determined, in effect, as a 'balancing' item to maintain the deficit of the non-commercial sector at projected levels.

In other words, the Auditor is suggesting that variations in superannuation provisioning have been made to look as though the Government has been meeting its 1994 financial statement target for a surplus by 1997-98. The Auditor further points out that the present budget papers project that by the year 2000 the estimated superannuation and debt levels will be $14.383 billion, which represents a deterioration of $675 million compared with the estimate given in the previous year's budget paper, and I refer the Treasurer to page 40 where that information is given. What is the Treasurer's response to the Auditor's claim that in fact we have a deterioration of $675 million compared with last year's estimate? Will he explain why?

The Hon. R.I. LUCAS: As I indicated in response to the previous question, I am happy to bring back a reply to the honourable member on the commitment the Government gave back in 1994 by the previous Treasurer and a report as to whether or not the Government is on track in keeping that commitment. As I said, the last advice that I have is that we are broadly on track in terms of keeping that commitment.

The honourable member in the first part of his question (page 37 of the report) referred to using superannuation funding as a 'balancing' item. The important issue that needs to be highlighted there to counterbalance that statement is that if this issue is being used as a balancing item, as the Auditor-General has suggested, as long as the Government is still maintaining its commitment to fully funding superannuation liabilities over its 30 year period, for example, there is no major reason why there should be any lasting concern about that. If, however, the Government, in using superannuation payments as a balancing item, was in some way falling $200 million a year short of the requirements to fund its superannuation liabilities, that would be reason for fair criticism by the Auditor-General and the honourable member because the Government would not be then abiding by the commitment the previous Treasurer had given to fully fund superannuation liabilities over a 30 year period and to pay certain amounts into superannuation funds to achieve it. I might say that the dilemmas this Government is facing is because the previous Government, inhabited by members like the Hon. Mr Holloway, refused to undertake this responsibility.

The Hon. P. Holloway: So the situation is worse than it was then.

The Hon. R.I. LUCAS: No, it is not worse. We are funding, over a 30 year period, the superannuation liabilities. We are putting significant hundreds of millions of dollars into funding those superannuation liabilities, much of which were accumulated in the period under which the Labor Government presided in government here in South Australia.

The only point I make in terms of the balancing item—and it needs to be interpreted in the way I have just indicated—is that the Hon. Mr Holloway and the Hon. John Bannon used these SAFA accounts as their mechanism for balancing the budget at the end of each financial year. The Hon. Mr Holloway, if he is to be true to this new-found interest in balancing items, might do well to look at the balancing practices that he supported in his Caucus as a member of the Bannon Labor Government for many years. If he is not able to do the research, I am quite happy to prepare some material for him to look at some of the wonderfully tuned balancing feats that the Hon. Mr Holloway implemented with the support of John Bannon and Co. during the Bannon Labor Government years. As I said, I am happy to bring back further information on that and will do so.

ELECTRICITY, PRIVATISATION

The Hon. M.J. ELLIOTT: My question relates to public expenditure on Government advertising, which is in Audit Overview Part A.4, page 47 and several pages following. The Government has based its decision to sell ETSA on the recent Auditor-General's Report as being the starting point. I wonder whether or not, in considering the Auditor-General's Report, it did give some consideration to this section. I understand that today, or it might have done so yesterday, the Government posted out a pamphlet to all members of the South Australian public entitled 'Electricity reform: Your questions answered'. I wonder just how well that fits in with what the Auditor-General had to say in relation to promotional campaign activities by public authorities. To quote the report briefly, at the bottom of page 47 Auditor-General said:

> Departments of State, statutory authorities, and other public agencies, in meeting their responsibility to keep the public informed about the activities of government, regularly need to notify the public about a range of matters. These matters include information regarding existing rights or responsibilities under various government programs or policies—

and I stress 'existing rights or responsibilities'—

> changes to existing government programs, and the launching of public awareness campaigns aimed at modifying public behaviour for the public good.
>
> These promotional and campaign activities are an integral part of representative democracy and accountable government. They increase the public's knowledge about the activities of government. Promotional campaigns about government services also serve to educate members of the public in their capacity as consumers.
>
> 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.

It is worth noting that this pamphlet does not reflect any change in the law or anything else at this stage. In fact, the Government has now begun a campaign asking the

Parliament to change the law. As such this pamphlet can only be seen to be supporting a Party political position. As I understand it—and the Treasurer may care to correct me—I suspect that this has been principally driven from the Premier's Department; it certainly has not been produced within in the department directly responsible for energy itself, and it has not been produced by public servants in the generally understood sense.

The report continues for a number of pages. It refers to the fact that in many other jurisdictions, including the United Kingdom, New Zealand and other Commonwealth jurisdictions and States of the Commonwealth, there is either legislation or conventions which have been accepted by all political Parties. That is not the case in South Australia—and that point is made by the Auditor-General. I ask the Treasurer, first, to respond in terms of whether or not the Government feels that this pamphlet conforms to the suggestions made by the Auditor-General and, secondly, whether or not the Government is prepared to pursue legislating for or establishing an agreed convention, because I note that the previous Government was accused of doing those sorts of things.

The Hon. R.I. LUCAS: As I have indicated on a number of occasions, I always give great weight to the words of the Auditor-General's Report and to any cautionary notes from him. As I said before, I do not always agree with him, although I do on most occasions, and I think his words of caution which the honourable member has raised are very wise words which Governments of all political persuasions should take into account when they look at these issues. Similarly, I am positive that the Premier and his senior officers and advisers, in any decisions that they make, would take close account of the wise words of the Auditor-General regarding this issue.

The honourable member has quoted at length from the Auditor-General's Report. The critical point when it comes to questions of propriety are contained in the last paragraph, which states:

> Where the benefits of those activities accrue principally or substantially to a political Party, questions of propriety may be appropriately raised.

Clearly, at least in my judgment, the leaflet to which the honourable member refers would not be covered.

The Hon. M.J. Elliott: With the support of your Party.

The Hon. R.I. LUCAS: No. Clearly it would not be covered by the leaflets that have been referred to. The Hon. Mr Elliott might wish to make a different judgment, but this issue about the sale of ETSA is not about accruing benefits to a political Party. Indeed, last night during the discussion with his colleague the Hon. Mr Elliott said that there would be a lot of political pain for the Premier because of the decision that has been taken.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: No. The honourable member said that, in his judgment, because of that decision the Premier would suffer damage to his credibility because he adopted a different position after the election as opposed to that before it. I will not enter into an argument about the rights and wrongs of that. Clearly, the decision that has been taken on this issue—at least in the judgment of the Hon. Mr Elliott—will not accrue any benefits to the Leader of the Liberal Government (Hon. John Olsen). As the Premier has indicated—and certainly it is my judgment—the benefits of this activity (if we can call the sale of ETSA and Optima an activity) will accrue to all the people in South Australia: the benefits will accrue to everyone. It does not matter whether one is a Liberal voter, a Labor voter, a No Pokies voter or even a Democrat voter: the benefits will accrue to all South Australians.

The benefits that the Premier indicated yesterday—savings on interest, reduction of the debt, the freeboard in the budget to be able to spend extra money on radio networks for country constituents, the CFS, the ambulance service, the MFS, and schools and hospitals—will accrue not just to members or supporters of one political Party (the Liberal Party) but to supporters of all political Parties—indeed, to all South Australians. So, I do not accept this, and I am sure the Premier would agree with my views, although I have not had a conversation with him specifically about this. I do not think the Premier would believe that this leaflet to which the honourable member refers would accrue benefits principally or substantially just to one Party. Therefore, in the judgment of the Auditor-General the issues of propriety would not come into play.

The Hon. P. HOLLOWAY: My next question relates to the A3 audit overview which refers amongst other things to electricity reform in South Australia. By way of observation, I note that yesterday in his comments the Premier said that the Auditor-General's warnings at first looked unreal. One wonders whether at first sight the Treasurer thought these warnings were unreal. However, that is by the way. My question relates to the industry risks to which the Treasurer referred during Question Time.

I refer specifically to page 27 of the report where the Auditor-General details a number of risks, the first two of which relate to a potential need to establish special arrangements to shield some customers from sudden increases in electricity prices. The next one refers to a potential need for the South Australian Government to make payments for community service obligations in respect of some electricity sale contracts. Does the Treasurer agree that this risk remains for the Government, no matter who is the owner of ETSA? In other words, how would selling ETSA remove those risks that have been identified by the Auditor-General?

The Hon. R.I. LUCAS: Regarding community service obligations, obviously that is a judgment for Governments: they can choose whether or not to continue with them. I concede to the honourable member that in respect of community service obligations Governments will have to make a judgment call whether it be under public or private ownership.

Regarding the first question, I will need to take further advice about these special arrangements to shield customers from sudden increases and see how that operates and perhaps obtain a better idea of what the Auditor-General is referring to. I am happy to take advice on that for the honourable member and provide a more detailed response.

The Hon. P. HOLLOWAY: Will the Treasurer indicate how he arrives at the figure of $2 billion in respect of the risk from ETSA which is referred to by the Auditor-General in this section of his report?

The Hon. R.I. LUCAS: The Premier has indicated that the advice that was provided to the Government—and we took advice during the period after 22 December, through January and into the early part of February—gave us the best possible estimate of $1 billion to $2 billion of risk, which involves estimates of competition, payment risk and market risk, and a variety of other risks as well. The speech to which the honourable member has referred on a number of occasions mentions estimates of up to $2 billion. That is where

that figure has come from: it is based on advice from the best possible advisers that we were able to get throughout Australia during that period of December through January. As I indicated to a group of journalists in a friendly round-table two-hour discussion this morning, it is impossible for any Government or non-government body to be able to say, 'Your risk in the year 2001 or 2002 if you trade in the electricity market and stay with public ownership will be exactly $143 million,' because no-one knows what decisions will be taken by the various players or what the state of the market will be.

All you can get at this stage is the best possible experts who are very familiar with the market and the possible risks and for them to provide some form of estimate as to the levels of risk. As I said, their advice to the Premier and to the Government was the order of $1 billion to $2 billion. Even if the risk was $500 million, it is too great a risk in which to involve the taxpayers of South Australia. When talking about risks of hundreds of millions of dollars, potentially $1 billion to $2 billion, then you are talking about very significant sums of money, and, frankly, sums of money that the taxpayers of South Australia are not in a position to fund or to bail out ever again.

The Hon. P. HOLLOWAY: At page 38 of his report in the concluding comments the Auditor-General states:

> Audit's concern is not so much that the identified risks exist—

in other words, the Auditor-General is not worried about whether they exist—

> but more that they are a necessary and unavoidable consequence of the restructuring of the ESI and the entry by South Australia into the national electricity market. Audit is concerned to ensure that all the significant potential risks have been identified, where possible quantified, and strategies developed for their management.

Does the Treasurer believe that his Government is not capable of identifying the risks, quantifying them, or developing strategies for their management?

The Hon. R.I. LUCAS: That is exactly what the Government has just done.

The Hon. P. Holloway: The strategy is to sell.

The Hon. R.I. LUCAS: Exactly.

The Hon. P. Holloway: So you are not capable of providing—

The Hon. R.I. LUCAS: The Hon. Paul Holloway and his colleagues have demonstrated that they are able, in his opinion, to run Government-run enterprises such as banks in a competitive market. The Hon. Mr Holloway is indicating that it is possible for Governments to run Government-run businesses in a competitive environment and he gives the example, 'Goody, goody, look at the way we ran the State Bank and how we saved money for the taxpayers of South Australia.' But he is saying that we are not capable of doing it. He says, 'Shame, you are not as good as we were in the Labor Party and the Bannon Government in terms of running Government-run enterprises in a competitive environment.'

The Hon. A.J. Redford: They won't learn.

The Hon. R.I. LUCAS: They won't learn, and they are not learning, and I am sorry to see that the Deputy Leader is still so very low on the learning curve in terms of this portfolio. He is suggesting that we ought to continue to be public sector players and managers and then criticises this Government because, indeed, it has done what the Auditor-General has said. We need to identify the risks—we have done that; to quantify the risks—as best we can we have the best available experts to tell us the risks; and to develop strategies for their management—and we have done that.

Our strategy for management is to sell the assets at a premium, reduce the debt, reduce the level of interest costs that we must pay, increase the amount of money that we can spend on education, health and a variety of other assets, and remove the risk to the taxpayers of South Australia of having to go down the Bannon-Holloway path of bailing out publicly-run Government enterprises trying to compete unsuccessfully in a competitive cut-throat environment.

The Hon. P. HOLLOWAY: As the Treasurer has mentioned the State Bank, the Auditor-General goes on to state:

> The principal lesson from that experience was the need to establish and maintain an appropriate prudential control framework encompassing competent management, adequate accountability and timely and effective monitoring.

Given that this sale process will occur some time in the future and that, presumably, these risks will apply almost straight-away as ETSA enters the national electricity market, what does the Government intend to do in the interim in terms of maintaining appropriate prudential control frameworks, competent management, adequate accountability and timely and effective monitoring?

The Hon. R.I. LUCAS: We will try to do all that to the best of our ability in the interim and to sell the assets as quickly as possible. If the Hon. Paul Holloway wants to assist in the prudential management of the risks that have been identified by the Auditor-General, he will seek to change the view of his own Leader, Mike Rann, on this issue.

The Government clearly will have to maintain and run the assets during the asset sale process. We will need to do that prudently to ensure that we minimise the risk to taxpayers but, ultimately, the Government's position is that the only way to successfully manage the risk for the taxpayers is to sell the assets.

The Hon. CAROLYN PICKLES: My question is directed to the Minister for Transport. I refer the Minister to Part B: Agency Audit Reports, Volume III, page 990 regarding the Department of Transport. Highlighted in the Auditor-General's Report as a significant feature is the following:

> The Department [referring to the Department of Transport] sold and leased back its plant fleet incurring an extraordinary loss of $40.5 million due mainly to the proceeds from the sale being retained by Department of Treasury and Finance.

When this extraordinary loss of $40.5 million is incorporated into the operating statements, it results in a $17.284 million decrease in net assets. My question is: will the Minister detail the agreement between the Department of Transport and the Department of Treasury and Finance that has resulted in such an extraordinary loss for Transport?

The Hon. DIANA LAIDLAW: It is an accounting loss. I have not all the details at hand or in my head, but I will bring them back. It was part of the Government's general lease of light vehicles and heavy vehicles undertaken by the asset management group on behalf of Treasury. It has actually been a very constructive exercise for the department not only in terms of returns to it and to Government generally but also in the way in which our work gangs use that equipment.

Last year, I was on the Birdsville Track, and it is interesting (according to the supervisors) to see the change in attitude of the work force now that they are composed as business units, how they are looking at the hire rate and the lease rate of this equipment, and what actual equipment they need. They recognise that the equipment purchased in the past was an over-capitalisation by the department of taxpayers' money for equipment which may have appeared fantastic on the

inventory but which, in fact, was not fully utilised and for which we were not getting value for money. That attitude is coming from the business unit and the supervisors in the outback, let alone from other areas of the department's work force. I will get specific details, but I know that it has been a successful process in terms of the Department of Transport.

The Hon. CAROLYN PICKLES: The Minister says that it is an accounting loss. Is that the nub of her answer?

The Hon. DIANA LAIDLAW: I said I would bring back a full answer to the honourable member.

The Hon. CAROLYN PICKLES: Perhaps the Minister might like to comment on why the Auditor-General referred to it as an 'extraordinary loss'. Clearly, he has a modicum of concern about it and has highlighted it as a significant feature.

The Hon. DIANA LAIDLAW: 'Extraordinary' is an accounting term, not an adjective to describe a circumstance, but in that context I will still bring back a reply for the honourable member.

The Hon. NICK XENOPHON: My question is to the Minister for Transport in her capacity representing the Minister for Human Services. I refer to page 291 of Volume I of the Auditor-General's Report in relation to the Gamblers Rehabilitation Fund where it is stated that the fund was established as a special deposit account with the approved purpose to 'record receipts and disbursements relating to programs for the rehabilitation of addicted gamblers, for counselling such gamblers and their families and for the development of early intervention strategies'.

I further refer to the media release and the statement made in Parliament by the Minister for Human Services (Hon. D.C. Brown) on 9 December 1997. He announced that $500 000 from the Gamblers Rehabilitation Fund was to be distributed to the Salvation Army and other welfare groups to provide material assistance to families affected by gambling. I understand that this money was distributed in the form of food parcels and other welfare services to families but there was not a criteria that the families were affected by gambling. Does the Minister consider that the $500 000 distributed in that manner last year was in clear breach of the guidelines set out in the Auditor-General's Report?

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

ELECTRICITY, PRIVATISATION

The Hon. SANDRA KANCK: My question is directed to the Treasurer and relates to part A-3, particularly the issue of electricity reform in South Australia. Can the Treasurer say whether or not there were any meetings between June and December last year between the Premier and the Auditor-General, the Minister for Infrastructure and the Auditor-General or the Treasurer and the Auditor-General in relation to the direction that the Auditor-General was proceeding on this issue?

The Hon. R.I. LUCAS: Frankly, I have no idea, not having been either the Premier, the Minister or the then Treasurer. I will need to try to take some advice for the honourable member. Certainly, having been a member of the leadership group and Cabinet, I am not aware of any discussions or meetings. Of course, I would not always be aware if the then Treasurer was having meetings with people. I would not be aware of all the meetings he was involved with. Certainly, nothing was done that I was aware of and certainly as a member of the leadership group of Cabinet I was not made aware of anything being done on that issue. As a member of Cabinet, albeit with the education portfolio, the first I realised of the Auditor-General's interest and work on this issue (and, as I have said to the Hon. Sandra Kanck, the work is considerable, because it is highly unusual for the Auditor-General, although it is an indication of the direction he wants to head, rather than just auditing a particular area, to devote some 40 or 50 pages and considerable time in alerting us to future risks in relation to this issue) was when it hit the table of Parliament and I read it with interest subsequently.

EDS CONTRACT

The Hon. M.J. ELLIOTT: My question is directed to the Treasurer. I refer to A-3, page 91 where the Auditor-General drew attention to deficiencies in documentation, particularly in relation to agency service level agreements. To the Treasurer's knowledge, have the issues raised there been addressed?

The Hon. R.I. LUCAS: In the 10 seconds since the member asked his question, I have had a quick look. I take it that this relates to agency service level agreements with EDS.

The Hon. M.J. Elliott: Yes.

The Hon. R.I. LUCAS: As the member would know, I do not have immediate responsibility for the EDS contract but I am happy to take advice from the appropriate Minister and bring back a reply for the honourable member.

GOVERNMENT OUTLAYS

The Hon. P. HOLLOWAY: My question relates to Government outlays and I refer to volume A-2 of the Audit Overview. The Auditor-General's analysis takes out the effect of Commonwealth transfer payments so we can clearly see the effects—

The Hon. R.I. Lucas: On what page?

The Hon. P. HOLLOWAY: On pages 16 and 19. The Auditor-General's analysis takes out the effect of Commonwealth transfer payments, so we can see the effects of decision making by the Government. The Auditor-General finds that between 1993-94 and 1997-98 general Government final consumption expenditure has risen and not fallen by $158 million in real terms (page 19). The Auditor-General concludes that there have been increases in expenditure over the past four years that have exceeded outlay reductions (page 16). He further concludes that, if past outlay trends continue, they will place pressure on achievement of future debt and deficit targets. He states:

> The implication of past outlay trends is that continuation of those trends will place pressure on the maintenance of projected outcomes in the longer term.

In view of the Auditor-General's comments on the past budget, how do the Government and the Treasurer justify going to the election promising an upgrade of the Royal Adelaide Hospital and the Premier's comment yesterday saying in his justification of the sale of ETSA that the Royal Adelaide Hospital needs over $120 million spent on it and 'We have not got it'?

The Hon. R.I. LUCAS: Let me answer the last question first. The simple fact is that the Royal Adelaide Hospital requires at least $120 million, and some are arguing even more, and the Government has in its forward estimates some $60 million or $62 million. The Government has funded somewhat less than half of what is being asked for. As I said,

there are some down there who believe we should be spending even more than the $120 million that they are asking for. That question was evidently asked in the House of Assembly today and that is the appropriate response to it. The approach that the Hon. Paul Holloway is adopting is extraordinary. In his last question he criticises the Government for not being tough enough on reducing public expenditure. He quotes the Auditor-General who said that we talked about reductions in outlays but that we actually had an increase in outlays and, if we continue on that basis, we will place pressure on the budget.

Here we have the Deputy Leader of the Labor Party in the Upper House attacking the Liberal Government for not being tough enough in reducing outlays. He is saying that we did not cut hard enough into the public sector. I do not think the Hon. Paul Holloway really knows what he is asking in relation to this series of questions.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Through that line of questioning the Hon. Mr Holloway is quoting the Auditor-General and wanting to know why we have not restrained our outlays and suggesting that, if we continue with outlays in the current fashion, according to the Hon. Mr Holloway and the Auditor-General, we will place pressure on the budget. The Hon. Paul Holloway is mightily confused and it is interesting to note that as we lead into this budget he is on the public record indicating that he believes we were not tough enough; we did not cut hard enough; we did not reduce the outlays enough and, because we have not done that, we are placing pressure on the budget. He is saying, 'Shame on the Government for placing pressure on the budget because it actually increased spending on education and health.' On the one hand we have the Deputy Leader criticising us for not being tough enough, yet for most of the past four years and for most of the next four years the Leader of the Opposition and others have been and will be arguing that we should increase expenditure even more. The Labor Party has to get its act together. On the one hand you have someone saying you have to cut more and reduce outlays yet, on the other hand, when we do anything the Labor Party indicates we should be spending more, increasing outlays. On the same logic used by the Auditor-General and the Hon. Paul Holloway, they suggest we are placing even more pressure on the State budget.

By way of interjection the Deputy Leader is trying to wriggle out of the hole he has got himself into by saying, 'You should not have made promises about the Royal Adelaide Hospital that you could not keep.' We have given a commitment for a $60 million redevelopment over four or five years at Royal Adelaide Hospital. The Premier has indicated that the people at the Royal Adelaide Hospital believe that they need at least $120 million, and we do not have a $120 million. It is entirely consistent with the commitment given and it is entirely consistent with the approach the Government has adopted.

CONSULTANTS

The Hon. M.J. ELLIOTT: I draw the Treasurer's attention to pages 45 and 46 of volume A-4 touching on the issue of consultants. In his summary on page 46, the Auditor-General says:

> Where communications or issues management consultants are engaged to advise on, and provide services in relation to, legitimate promotional and campaign activities by public authorities, particular care should be taken to ensure that that advice and those services are not used for purposes that can be characterised as being, or substantially being, party political in nature.

Has the Government responded to that in any way and, in particular, has it at the very least considered producing some sort of code against which consultancies and their use might be measured?

The Hon. R.I. LUCAS: I would have to take advice, because clearly this would be an issue for which the Premier and the Chief Executive Officer of the Department of the Premier and Cabinet would take principal responsibility. Again, I say as I do in response to the earlier reference the honourable member made to the Auditor-General on promotional material that these are wise words from the Auditor-General, and sensible Governments ought to take them into account. I do not support, and I know the Attorney-General and Minister for Transport and Urban Planning would not support, the use of consultants for a Party political purpose. In the end I guess there will be an opportunity for reasonable people using reasonable approaches to come to different judgments as to what is Party political and what is Government.

The Hon. M.J. Elliott: Have you got a measurable code—

The Hon. R.I. LUCAS: I am not sure what a measurable code could be. I will take advice as to whether any work has been done on it, but the honourable member may be able to suggest what a measurable code might look like. As I think about it, I must admit that it is an extraordinarily subjective area. What the honourable member might see as being Party political others might not. What is Party political is a very subjective issue. Earlier the honourable member had a clear view that the leaflet was Party political in nature or at least heading in that direction.

The Hon. M.J. Elliott: It doesn't reflect the law but what the Government wants the law to be.

The Hon. R.I. LUCAS: In trying to make a reasonable judgment about that material, the honourable member comes to a different conclusion from mine. I make a reasonable judgment on it and come to a different conclusion. It is an example of subjectivity in how you might interpret a Party political or promotional activity.

The Hon. M.J. Elliott: The code refers to reflecting current law.

The Hon. R.I. LUCAS: Yes, but you cannot say 'current law'. In essence that would mean that no Government could undertake any activity that sought to bring about a change for the benefit of South Australians in any law or activity.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: No; if you say it has to be a current law, in essence that means you are restricted from being able to do a whole range of things. If you wanted to promote a debate, as the honourable member has done, about the need for drug law reform—

The Hon. M.J. Elliott: I haven't used Government money.

The Hon. R.I. LUCAS: No; I am just saying—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: You say you have not used Government money. You are provided with taxpayers' money, which you used—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: The size does not matter. If the honourable member is provided with taxpayers' money which he uses for letters, envelopes and stamps to promote change

in drug law reform, as he did, through circulating materials, as he knows was raised in this Chamber—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: That does not matter; that is not the principle. The honourable member has used taxpayers' funding to promote changes in current law. The reason why I highlight that—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Now we are only arguing about the size of it: it is not the principle. The honourable member is saying that it does not matter if I spend only a few hundred dollars; it is a question of the amount of the money, not the principle. He cannot cop out of it that way. If in his judgment it is wrong to spend $100 000 it is also wrong to spend $100.

The Hon. R.R. Roberts: No, it's not.

The Hon. R.I. LUCAS: The Hon. Ron Roberts says, 'No, it's not.'

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: And the same thing with the Hon. Mr Roberts. He uses taxpayers' funds to seek change to current laws as well. Members such as the Hon. Mr Elliott will have to be very cautious: if he wants to establish some sort of measurable means index, or whatever it was that he was suggesting, then it might be applied equally to the Hon. Mr Elliott.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Now at least he concedes that the sort of activities he was engaging in would contravene such a measurable means judgment.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: No, hold on. The Hon. Mr Elliott cannot have his cake and eat it, too.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: You keep interjecting; I am trying to answer you. The Hon. Mr Elliott has been caught. He asked a question about which he thought he might be able to make a political point. Then he was hoist with his own petard, because I reminded him of examples where he used taxpayers' money to seek to change current law in the drug law reform debate—and he was criticised for distributing it amongst minors.

The Hon. M.J. Elliott: I used my postal allowance.

The Hon. R.I. LUCAS: Taxpayer funded.

The Hon. M.J. Elliott: I used my postal allowance.

The Hon. R.I. LUCAS: The honourable member mentioned his postal allowance, a taxpayer funded activity. He was saying that Governments should not use taxpayers' funds to change the current law. That is what the Hon. Mr Elliott did. He used taxpayers' funding to seek to change current drug laws. He circulated material to some minors, which was another issue for which he was criticised. If the Hon. Mr Elliott is going to set up judgments on which Governments will be judged, he will have to look in his own backyard, and he too will be judged for expending taxpayers' funding to try to change current laws.

I am not being hypocritical about this, because I am not criticising the Hon. Mr Elliott. I am saying that Governments ought to be able to spend money if it is for the benefit of all people, as it is in relation to ETSA and Optima. If it is not Partly political, that is okay. Frankly, I think it is okay for the Hon. Mr Elliott. I do not like the bit about distributing it to minors, but it is okay for the Hon. Mr Elliott to spend money on seeking to change current drug laws—not that I agree with those issues; but it is his right to do that. So, I am being consistent. The Hon. Mr Elliott is being inconsistent in that he applies one set of parameters to the Government and seeks to apply a different set of parameters to his own expenditure of public funding.

STATE TAXATION

The Hon. P. HOLLOWAY: I direct my question to the Treasurer about taxation. The Audit Report questions the Olsen Government's claim to be a low taxing Government. On page 28 of Audit Overview A2 it is indicated that taxation revenue increased by nearly 13 per cent in real terms between 1993-94 and 1997-98. This is not solely due to natural increases in tax revenue. Nearly 25 per cent of the increased taxation is due to changes in legislation made by this Government since December 1993, such as the broadening of the payroll tax base. Does the Treasurer acknowledge that, on the evidence of the Auditor-General himself, the Government has broken the pledge of former Premier Brown not to raise taxes above the rate of inflation?

The Hon. R.I. LUCAS: Again the Hon. Paul Holloway is moving into uncharted waters. Now he is suggesting that the Government should not have raised as much revenue so that it could spend it on education and health. The Government increased spending on schools and hospitals in its four years; he criticises us for that, and now he is criticising us for raising the money to spend more on schools and hospitals.

The Hon. L.H. Davis: And he's probably against privatisation, too.

The Hon. R.I. LUCAS: He is probably against privatisation as well. The Hon. Mr Holloway does not know where he is coming from. His colleagues seek to criticise the Government for not spending enough on education and hospitals, whereas he is attacking us for spending too much—we should have cut even further—and now he is criticising us for having raised the revenue. The Government under the new Premier John Olsen indicated its position in relation to the next four years with regard to taxes and revenue. The Premier has left some flexibility in terms of the next four years. We have made no concluded judgments because we have a national tax reform debate and there may well be, as a result of the national tax reform debate, a new tax which State and Commonwealth Governments might want to support. The Labor Party ruled itself out of that debate. John Olsen was smart enough to ensure that he was still a player in that national tax reform debate. We will look with interest at developments on the national stage. The Government's decisions in relation to charges and taxes will be revealed to the honourable member and everyone in the May budget.

The PRESIDENT: The extended time for questions having now expired, I now call on members to make statements of matters of interest, the time allowed being 35 minutes and each member being allowed to speak for no longer than five minutes.

MATTERS OF INTEREST

PRIVATISATION

The Hon. L.H. DAVIS: I have watched with interest the Government's decision to seek the privatisation of the Electricity Trust and Optima. Already, quite predicably, the Labor Party has come out strongly against this proposal. Never mind that it would reduce State debt by more than half; never mind that it would free up the Government's ability to look after health and education issues; and never mind that Commonwealth and other State Labor Governments have already invested heavily in privatisation programs. Logic has never been a long suit of the Labor Party.

Let me examine the privatisation scoreboard to date. A Federal Labor Government began the privatisation process of the Commonwealth Bank. It sought the privatisation of the Australian National line. It privatised Australian Airlines and Qantas by wrapping the two into one entity. In Western Australia a Labor Government privatised the State Government Insurance Office, 49 per cent of what was then called the R&I Bank and a power station. The Victorian Labor Government privatised the State Government Insurance Office and the State Bank (which was taken over by the Commonwealth bank initially). State forests were privatised by the Victorian Labor Government and a 40 per cent interest in the Loy Yang B power station. The Queensland Labor Government also privatised a prison and a power station. In New South Wales a Liberal Government privatised the Government Insurance Office, the State Bank and a prison.

Let us come to South Australia where we can also claim some runs on the board for a Labor Government. It privatised the State Bank of South Australia. Admittedly it may claim, albeit reluctantly, that it was a forced privatisation because it had presided over a lazy $3.1 billion loss of the State Bank, but nevertheless it acquiesced in the privatisation of the State Bank. It also acquiesced, let it never be forgotten, in the effective privatisation of the South Australian Gas Company. It was at the time a listed company on the Stock Exchange, but nevertheless it was effectively controlled by holding through the South Australian Government, which naively sold it off at a knock-down price to Boral. I am on record in this Chamber attacking that low price. I was not necessarily disagreeing with the proposition but attacking the naivety of this.

The Hon. Mike Rann was around for both those things—the State Bank of South Australia and the SA Gas Company. Gas, I understand, is defined as 'energy'. Electricity, I understand, is also defined as 'energy'. He puts his hand up for one but not for the other because he is a populist, not a man of principle—an absolute populist.

So, the facts on privatisation around Australia under Labor Governments are clear. It is given more potency, if not poignancy, by the fact that the New South Wales Labor Treasurer, Michael Egan, together with his Premier, Bob Carr, are desperately trying to privatise what is regarded as $22 million to $28 million worth of electricity assets. We know that Jeff Kennett succeeded in the sale of $13.8 billion worth of electricity supply and distribution assets in South Australia and, in the end, $4 million in gas distribution companies by breaking up the old Gas and Fuel Corporation.

The facts are irresistible: the Labor Party both at a Federal level and in all States of Australia has embraced privatisation, one might say in some cases with a passion. It will be interesting in the months ahead to see exactly how consistent the Labor Party is as we face the prospect in South Australia of ETSA and Optima being privatised.

CARNEVALE

The Hon. CARMEL ZOLLO: I rise to congratulate Mr Tony Tropeano, President of the Italian Coordinating Committee, Mr Paolo Nocella, a former member of this House and the Manager of the Carnevale, members of the committee, Italian clubs, associations, sponsors and supporters, who have all contributed to the success of Carnevale in Adelaide 1998 last weekend. I was pleased to see so many members from both Houses attend last Saturday's opening, in particular both Leaders of this Chamber—the Hon. Rob Lucas representing the Premier and my colleague the Leader of the Opposition the Hon. Carolyn Pickles. This year, 1998, is the twenty-second year that this Italian Festival, as it was previously called, has been held in South Australia. This year for the first time the parade which kicked off the festival reflected the wide multicultural diversity of South Australia's community with Italian, Spanish, Dutch, German and Aboriginal groups taking part.

As an Italo-Australian I always marvel that the celebration of all things Italian has a natural constituency in the hearts of so many South Australians outside the Italian community. The culture of Italy, its arts, fashion, music, food and style is always in demand, admired and participated in. This year's Carnevale was no exception. The weekend was a very successful one with a blending of local and overseas talents and the participation of so many community clubs and associations.

Carnevale celebrations in Italy mark the commencement of the beginning of the Lent—the period leading up to Easter. It is a time of celebration and festivities, a time to jest and dress up, a time to eat well before the abstinence and austerity of Lent. I had the good fortune last year to be in Italy at the time of Carnevale and to witness the cultural importance of the celebration, especially amongst the children whose excitement over their costumes and school plays was infectious. Witnessing the intricate and beautiful craft of mask making by hand was a sight to behold in Venice. It did not matter what part of Italy one was in, Carnevale was a time of festivities and letting go of inhibitions, even if it was incognito.

I am pleased that so many dedicated people in the Italian community are able to bring and capture some of this atmosphere for the enjoyment of all South Australians. On the consular side the community is fortunate to be led by Dr Roberto Colaminé. In the short time Dr Colaminé has been in South Australia he has demonstrated his vision is clear and focused on the unity and best interests of the Italian community. The Consul's commitment and enthusiasm is obvious at the many community events at which he is present. The fostering of close economic and cultural cooperation between Australia and Italy can only be to the benefit of all South Australians and the South Australian economy in particular. I congratulate all who organised, participated in and attended last week's Carnevale.

ELECTRICITY, PRIVATISATION

The Hon. SANDRA KANCK: Some weeks back I had decided to speak today on the issues of employee moral and

decision making in ETSA in order to forewarn of the risk of privatisation if things in ETSA did not improve. Yesterday the Premier announced plans to sell ETSA, so all I can do now is to place on record some of the ineptitude that has been detailed to me in recent times. Members would be aware that for quite some time I have either been asking questions in this place or making statements via the media which have targeted some of the decision making of ETSA. I have done so because of my concerns that this organisation was running itself down, and that at least I think was in part because the Government continued to use ETSA as a cash cow.

My various sources in ETSA were very concerned that this would ultimately result in privatisation moves. I did not want this to happen and I had hoped that by highlighting these issues both the Government and ETSA management would get their act together and make the decisions that would assist to maintain ETSA as a South Australian institution. As members know, ETSA went through a process of reducing its employee numbers by offering TVSPs. From the information that I have been given it seems that there were more Vs than there were Ts. As a consequence, ETSA lost many skilled middle management employees. Many of the best were the first to go because they saw the opportunities that awaited them in the private sector. These were the same people who, if they had stayed, might have been able to make a significant contribution to ETSA's restructuring and corporatisation as a result of its exposure to competition policy in the national electricity market.

Information given to me late last year was that the framework which had been put in place for South Australia's entry into the national electricity market did not set in place the structures and procedures which were necessary for the involvement of independent retailers. Whose fault this was I do not know, but it clearly played a significant part in ETSA's failures in the New South Wales and Victorian markets which has in turn contributed to the Government's decision to sell ETSA.

No corporate strategy had been put in place to work out how the various arms of ETSA, such as field services and network logistics, should relate to each other in the competitive market. As it is, they have operated in an *ad hoc* manner. I was told by someone who had worked for ETSA that a major review was required to determine how ETSA would fit into the national industry, but that ETSA management did not recognise the need to do this; that Minister Armitage needed to do talk urgently with people such as Stockdale, Hilmer and the Industries Commission; that the disaggregation of ETSA had occurred on paper only; that ETSA would not be capable of operating in a national market unless the different corporations had real boards with real autonomy; and if these things did not happen ETSA and Optima would have to be sold.

My informant was clearly but sadly correct. The engine driving this apparent failure of ETSA has been competition policy. It seems that Labor started it but the Liberals well and truly finished it. We have dealt with assorted legislation over the past four years to corporatise and then disaggregate ETSA. In debate the Government has ducked the issue of competition policy and its negative impact on South Australia by bleating that the Labor Government signed off on competition policy and that the incoming Liberal Government in 1993 had no choice but to follow. At no point have I been given an explanation as to what would have happened if the Government had refused to be part of it. The fact is that it suited the Government to continue down the same path, and it knows that.

I am very suspicious now of the slick public relations campaign that the Government has launched to support its decision. Every consumer in the State is to receive a glossy, full colour brochure for which the planning, production and printing could not have happened overnight. How did the Government manage to keep the printing of so many brochures under wraps? Would I be right in concluding that it was printed interstate? That would add insult to injury to the many South Australians who are already angry that their electricity utility is about to be sold as a result of a series of inept decisions on which they were never consulted. They are rightfully angry that their money should now be used to fund a campaign to sell off something that they want retained.

LITHUANIAN COMMUNITY

The Hon. J.F. STEFANI: In late December last year I attended a concert commemorating the fiftieth anniversary of the post Second World War immigration to Australia by Adelaide's Lithuanian community. The first group of post Second World War Lithuanian refugees arrived in Australia in 1947. The *General Heintzelman* was the first ship to reach the Australian shores when it docked in Fremantle on 28 November 1947. For many Europeans the Second World War caused radical changes. The Baltic states of Lithuania, Latvia and Estonia lost their independence during the Soviet Russian invasion of 1940. In 1941 when the war between Germany and the USSR began the German army occupied the Baltic states and quickly pressed eastwards into Russia. By 1944, however, the fortunes of war had changed. The Germans were in retreat and were losing the war. Once again the Baltic states were taken over by the Soviet Union.

It was at this time that many Lithuanians fled their country to escape the terror and persecution which they knew from past experience would follow. The arrival of Lithuanians in Australia was a direct consequence of the historical events that took place in Lithuania between 1940 and 1945, and over the following decade approximately 10 000 Lithuanians chose to make Australia their home. The Lithuanians who migrated to Australia were from many diverse professional backgrounds and skills. However, their professions were of little use to them because of language difficulties and because their qualifications were not recognised in Australia.

As a result many settlers accepted any job offer and worked in coal mines, cement factories, steel mills, railway workshops, road construction and the sugar cane industry. Many women worked in the food and textile factories or as hospital aides. The Lithuanian people accepted their hardships and adapted as best as possible to their new circumstances. They worked hard establishing themselves and their families for a better future, building a better life for their children and achieving success for their studies at universities and in the professions.

A year after the arrival in Australia of the first shipload of Lithuanians the Adelaide Lithuanian Society was formed. In South Australia the Lithuanian community has remained strong and vibrant, maintaining many family values and traditions, including their language which is central to the Lithuanian culture. I wish to pay tribute to the Lithuanian community for its contributions and for sharing its rich cultural traditions with the wider South Australian community. South Australia has gained great benefit from the many migrants who have contributed to the economic, social and cultural life of our State.

I take this opportunity to offer my congratulations to the executive committee and members of the Lithuanian community in South Australia for their hard work over many years of activity and for celebrating the fiftieth anniversary of post Second World War immigration to Australia.

ONE NATION PARTY

The Hon. R.R. ROBERTS: I rise today to address the question of the right of South Australians to gather together, to not be harassed by people carrying cameras and to be questioned about their presence in public places. I refer to the recent visit of the One Nation Party leader who came to South Australia on a four day tour. On Sunday 15 February 1998 the leader of the One Nation Party attended a meeting at the RSL hall in Port Lincoln to address interested people.

I note that the Mayor of Port Lincoln dragged himself away from his galah culling activities and his attacks on the ACCC for daring to attack a company that was falsely labelling tuna in his area, and was able to tear himself away from the deliberations of the Spencer Gulf Cities Council of which his council is a member. He saw that the speech of this person was much more important than pondering the life and conditions of the people living in the Spencer Gulf area.

The Hon. A.J. Redford: Did he whack any galahs while he was there?

The Hon. R.R. ROBERTS: No, he tore himself away from the galah culling on that day. On Monday I was contacted by a constituent who was present at the meeting and who was somewhat concerned at the actions of the police. This constituent obviously disagreed with the content of the speech which was, I am led to believe, at times clearly inflammatory and not based on fact or commonsense. My constituent is a man of some training when it comes to the identification of persons, and his description of the people who were present leads me to believe that most of it is accurate.

When this constituent walked into the meeting and went to find a seat, he was approached by a man who from my constituent's point of view was obviously a policeman. As this person sat down alongside him, he said, 'We've heard about you; we've been warned about you; what are your intentions at this meeting?' My constituent was somewhat alarmed by the tone of the question and its implications and asked why he was being singled out. He also asked for the identity of the policeman. He demanded to see the officer's warrant card, which was produced. I have the name of this person. He identified himself as a member of the Star Force. The policeman displayed his ID and the meeting proceeded.

Clearly, a citizen has the right to attend a meeting—even in Port Lincoln. This sort of activity in South Australia seems to smack of Hooverism with indications of a growing McCarthyism. I am concerned to note that the Mayor of Port Lincoln has attached himself to these people. I have also been alarmed to discover that the police were videoing the audience and their faces and that this was conducted in an open manner. I am reliably informed that a man aged 53 to 54, five feet 10 inches to five feet 11 inches, was clearly filming this meeting for a police operation. I assume that this video was not being done for a documentary, but it begs the question why these people were being videoed, for what purpose, to whom it would be distributed and who would have access thereto.

I do not wish to refer to the content of the speech, because I disagree with most of it. Otherwise, there would be accusations of prolixity and tedious repetition. Suffice to say that at one point during the speech the speaker made the claim that ATSIC was run by the Aboriginal mafia. When asked by my constituent to produce documentary evidence, the first answer was that she was told by an Aboriginal lady, and that is quite implausible. When my constituent tried to pursue this matter, he was told to sit down and be quiet. So much for freedom of speech!

I find these allegations to be not only outrageous but also an attack with an obvious racist base. Given that this meeting was held in Port Lincoln there was barely a whimper from the good citizens who had gathered to listen to Pauline Hanson. I also note that Mr Davis is quoted as saying, 'Anyone who has a measure of commonsense can understand where she's coming from.' I am very concerned that these things take place, as indeed I am also concerned about where those films are being distributed.

The ACTING PRESIDENT (Hon. T. Crothers): Order! The honourable member's time has expired.

CHAMBERS OF COMMERCE

The Hon. A.J. REDFORD: I wish today to speak on the issue of the country specific and region specific Chambers of Commerce grants scheme. On 28 July 1994, the then Premier (Hon. Dean Brown) launched the Council for International Trade and Commerce, SA Inc. (CITSCA). The council brought together under one roof many of the country's specific chambers of commerce in South Australia, with appropriate support and secretarial services to increase trade opportunities overseas to the benefit of South Australia. Since then, the council has played an important role in the enhancement of South Australia's overseas trade and our proud record as an international trader. One example of that is the CITSCA fax flash of 27 January 1998 which I understand most members have received and which contained the following small advertisement which said that the South Australian State Government had 'allocated $1 million during the three years from 1997 to 2000 for use in assisting South Australian companies to export their goods and services into overseas markets'. Significant funds were made available for subsidising the cost of participating in overseas trade exhibitions.

Following the receipt of this document I prepared a press release and sent it to the *Advertiser*—I must say more in hope than in anticipation. I indicated in that press release that $1 million had been allocated and that since 1992 the sum of $350 000 per annum had been granted.

I said in that press release that the Government had approved a revised set of guidelines reflecting a greater need for more adaptability and also more streamlined accountability procedures focusing on outcomes. I also referred to the different nature of the grants, including establishment grants, training grants, export/investment links grants, exhibition grants and special project grants.

To my great surprise, at about page 9 of the *Advertiser* on 13 February 1998 the press release was acted upon and a small article appeared entitled 'Guidelines for Grants' in which it was announced that a $1 million grants pool had been established with five categories. As a consequence of that article, which contained my telephone number, I am delighted to report that I received 17 inquiries. I responded to each of those people and sent them a copy of the guidelines suggesting that they contact CITSCA if they had any

problems. I assure members that I will follow up each of those applications to see whether or not they have been successful.

This is a good news story. It is an indication of the partnership between the Government, in making these funds available, and the various bodies including the Chamber of Commerce in South Australia, the Council for International Trade and Commerce and, dare I say it, the *Advertiser*. I am not known for being backward in my criticism of the *Advertiser* from time to time, but it is pleasing to see that when it receives a positive story, albeit a small one, it is acted upon quickly. There has been a good response, and I look forward to successful applications.

Finally, the greatest of accolades should go to our small business community. If the response to that small article in the *Advertiser* is any indication of how they are taking up export and other opportunities in this State, our economic future is in good hands. After all, it is the small business community that provides us with our wealth and jobs and the taxes that pay our salaries. In that regard, I wish all those people who are seeking those grants all the best, and I assure all of them that I will do my best to assist them in achieving their objectives in their worthy endeavours.

AUDITOR-GENERAL'S REPORT

The Hon. P. HOLLOWAY: We have just had a couple of hours of Question Time to conclude a period given over to consideration of the Auditor-General's Report. The main issues that I tried to raise from that report were issues of dishonesty by the Olsen Liberal Government over the past four years and in particular those parts of the Auditor-General's Report which highlighted misleading information. In particular, the Auditor-General found that the funding to cover future superannuation liabilities has fallen, not increased, by $212 million in real terms over the term of this Government, in spite of its rhetoric.

The Auditor-General found that the amount of the superannuation funding contributions had been determined as a balancing item to maintain the deficit of the budget. The Auditor-General discovered that when we take out Commonwealth transfer payments the implication of past outlay trends is that the continuation of those trends will place pressure on the maintenance of projected outcomes in the longer term. In other words, our budget is in trouble. We were not, of course, told this before the last election.

Also, if we look at this report closely we discover that the Government broke its pledge not to increase taxes above the rate of inflation. I guess all those broken promises are tiny compared to the grand daddy of them all which is the promise that the Government has now broken to sell ETSA and Optima Energy. I find it interesting that the Government appears to have just discovered the concerns raised in the Auditor-General's Report in relation to our entry into the national competition scheme and, in particular, into the national electricity market. All I would say is that if this Government was not aware of the risks identified in the Auditor-General's Report it certainly should have been. I find it rather frightening that the Government should have suddenly discovered these concerns last December. I think all of us can actually have some doubt about that claim by the Government. I think the truth is that this Government had intended to sell the Electricity Trust long before December last year.

It appears to be the attitude of this Government that if it has a problem you sell it. That came through in the answers given by the Treasurer to questions today. That is his solution to all problems. I think it begs the question: what is the point of having a State Government? When the State Government has sold off ETSA, the Motor Accident Commission and the rest of these assets, what will be left? What is the purpose of having a State Government?

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I remind the Hon. Angus Redford of what the Auditor-General had to say in his report about those things, and it is not good reading for the Government. The Government is involved in an asset-stripping exercise. Alan Bond might be in Fremantle Prison and Christopher Skase might be in Majorca, but their spirits are living on well and truly with the Olsen Liberal Government. Their spirits live on. In fact, this Government is the economic antecedent of these particular people.

I would like to make one other point about the sale of ETSA. The Premier told us yesterday in his statement that the price was expected to fall by 50 per cent over the next few years. That seems to beg the question: why would anybody pay twice as much for an asset now when the Premier has told them that all the reports state that it will be worth half as much in a few years? Who will we find to pay twice as much as the asset is likely to be worth in two years? It is an interesting question and one that I think this Government should be—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Well, I couldn't do a much better job than the Premier did yesterday in relation to the interjection of the Hon. Angus Redford. The last point I want to make is that I wrote to the Hon. Robert Lucas about the electricity industry and he responded in August last year. It is interesting that one part of the answer I received was—

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

NATIONAL PARKS AND WILDLIFE (GAME BIRDS) AMENDMENT BILL

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

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

That this Bill be now read a second time.

In introducing this Bill I need first to explain what the Bill is about and, importantly, what it is not about, because quite a deliberate campaign of misrepresentation has already started.

This Bill is about stopping a particular form of hunting which any reasonable person would deem to be cruel, that is, hunting with shotguns. This Bill seeks to ban the hunting of game birds which are defined as ducks, geese and quail. It does not seek to tackle any other form of hunting whatsoever. People will try to go down all sorts of byways which are absolutely irrelevant in terms of debating this Bill.

The first byway they will try to take people down is to try to debate it as a conservation issue, and I am not doing that. We could have some reasonable debates about the fact that freckled duck and other endangered species are shot, but that is not the reason for my introducing this Bill. There is no

doubt that members of field and game groups have done a lot of useful conservation work, but the debate will not be about conservation. If those people want to go down that route, the question could be asked: how much conservation justifies how much cruelty? The issue of cruelty will ultimately have to be debated alone.

The next byway they will try to take is that the next step will be fishing. I tell members in this place that I own two fishing rods, I bought each of my children a fishing rod for Christmas about three years ago and we all go fishing.

An honourable member: What about Sandra? Does she go fishing?

The Hon. M.J. ELLIOTT: I have no idea whether Sandra goes fishing. However, as I introduced this Bill, I am the person who should clearly speak to this matter. I can make an unequivocal statement that I have no intention of introducing, and will not be introducing, legislation in relation to fishing. So, let us put that to rest immediately.

Under a freedom of information request, it has been established that the Government has within its possession documentation which makes it quite plain that, when people shoot ducks with shotguns, somewhere between five and eight ducks are wounded for every 10 ducks that are bagged. It is worth nothing that all those which are bagged are not necessarily dead when they are retrieved but are killed quickly. It relates to the way in which the shotgun works. Unlike a rifle, the shotgun is not designed to shoot to kill: rather, it is designed to hit and to knock down. Whether it kills or not is not important for the shooter. What matters is that it knocks it down so that one can do whatever else one needs to do.

That works in the same way with galahs. It is why so many galahs were having to be clubbed after they were being shot in Port Lincoln, because shotguns are not designed to kill. Perhaps half the birds shot are killed immediately. Unfortunately, of those five to eight birds wounded and not recovered dead or alive against the 10 bagged, the overwhelming majority will die in the short or long term from injuries caused by the shotgun. It has nothing to do with how good a shot you are. In fact, shotgun pellets will be somewhat randomly distributed within an expanding disc as they move farther away from the gun.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: I suggest that you would be wasting a lot of bullets. If you can do a brain shot with a .22 on a duck you are probably doing pretty well. You know that that is not realistic. The pellets are distributed rather randomly and a duck in the middle of that pellet spray may or may not be killed. It has nothing to do with how good the person with the gun is. It is totally random whether or not the pellets hit the duck in a place that will kill it immediately and knock it down or whether or not it will hit the duck in places where it will not kill it immediately. In some cases the pellets will stay permanently; in many cases they will cause an injury that will cause a lingering death. Those are the facts of the matter. As to those facts, I can produce pamphlets going back 40 and 50 years to the days when the gun lobby thought rather differently in America and published magazines discussing this issue. The issue of animal cruelty was not particularly important. The important issue related to your chances of knocking something out of the air with a shotgun.

This issue is about animal cruelty and, no matter how hard a person with a shotgun tries, unless it is point blank, they cannot guarantee a kill in the way that a good rifleman might be able to give a guarantee when hunting larger animals. It is a fact that in 1996 an overwhelming majority of South Australians disapproved of recreational duck shooting. The 1996 Morgan poll showed that 67.2 per cent of South Australians said they disapproved of recreational duck shooting. It is interesting even in country areas that the same poll found that 60.7 per cent in country South Australia were opposed to the shooting of ducks for sport.

Some hunting groups have suggested that in some way we are being political about this issue and that we have suddenly jumped on to the issue. It is worth pointing out that the Democrats have had a long policy of opposition to duck shooting. In fact, it was a Democrat in New South Wales who successfully moved for the ban in duck hunting, which is now in place in New South Wales. It passed through the New South Wales Parliament in 1995. It is worth noting that duck hunting was banned in Western Australia in 1992. So, two States have already gone down this path. In this place on a number of occasions I have asked questions about the hunting of ducks. The two most recent examples were in March and November 1996, when I asked questions about bans on duck hunting, noting that in fact Ministers in the past have received advice from advisory committees to ban recreational duck hunting.

The Minister's Animal Welfare Advisory Committee in 1988 and the same committee, albeit with different members, in 1996 recommended that duck hunting be banned. Those are the Minister's own committees. One of those was under a Labor Government and one under a Liberal Government. The ban on recreational duck hunting is supported by all major animal welfare and conservation bodies in South Australia. A petition to the House of Assembly calling for recreational duck hunting to be banned has gained 52 444 signatures over three sessions. This figure has been verified by the House of Assembly petitions clerk. I understand at least another 3 000 signatures are about to come in and that this is the second largest petition presented to the Parliament in South Australia. It gives us some idea of how strong the feeling in South Australia is on this matter.

The question of nuisance ducks is raised and I would argue that that is a matter of less import in this debate in so far as the Bill relates to recreational shooting of ducks. Clearly, in South Australia we have some important questions to ask with regard to nuisance birds more generally. There is no doubt that there are some difficult questions in relation to corellas down south, in relation to galahs at Port Lincoln and in relation to ducks in some limited areas where they do some damage. However, as the Bill relates to recreational shooting, the question of what to do about nuisance ducks remains open and one that we need to debate. It is part of a broader debate about what to do about nuisance birds generally. I could debate that issue but really it is not relevant to this Bill.

I note that the South Australian Farmers Federation says that there is no real duck problem in South Australia. The closest to a problem anywhere is on the Belair golf course where the ducks enjoy the grass and get stuck into the greens occasionally, but even then it has proved to be a manageable problem. Any change in recreational duck shooting would have no impact one way or another on nuisance duck numbers. In Western Australia the Conservation Department has said that the banning of recreational shooting has had no impact on the amount of wetland conservation undertaken and I return to that issue because I noted earlier talk about conservation work that has been done. I applaud the conservation work done on wetlands but, at the end of the day, it gives no justification for what is a cruel act. I note that

the ALP 1996 platform on animal welfare states that the Party will:

> . . . continue to monitor the impact of recreational hunting on indigenous animals and encourage recreational hunters to target feral pests rather than native species, while in all cases ensuring full compliance with the Prevention of Cruelty to Animals Act and the National Parks and Wildlife Act.

In relation to feral pests I have raised the issue in this place of encouragement of hunters to target feral species, particularly cats, foxes, goats and pigs. If that is done by accomplished hunters, I do not believe it involves acts of cruelty. Accomplished hunters do not like spending much money on bullets. In my mind that is a different question from the question of using shotguns in the hunting of birds.

For those who say, 'How come you were opposed to shooting ducks but you eat meat?', it is worth noting that abattoirs do not have 50 per cent of their animals getting out and heading on to the streets of Adelaide and elsewhere wounded. Abattoirs quickly and efficiently kill animals and as far as possible they strive to minimise any cruelty aspects. There is no doubt that over time we have refined the techniques in that regard. It is probably possible that we can further refine our techniques to cause minimal suffering. Nothing can be done to refine the use of shotguns in an act of recreational cruelty which is not really a sport at all. I urge all members to give this issue their attention. We are now the third State to address this issue. Two States have already moved down that path and I do not believe anyone can put up a sustainable argument for the hunting of those birds with shotguns. I urge members to support the Bill.

The Hon. A.J. REDFORD secured the adjournment of the debate.

WATERFRONT REFORM

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

> That this Council condemns the Federal Liberal Government and the National Farmers Federation for their provocative approach to waterfront reforms in Australia, in particular—
>
> 1. their support for current and past serving members of the Australian Defence Forces to participate in an ill-fated overseas strike breaking training exercise; and
> 2. their support for the conspiracy entered into between Patrick Stevedores and a National Farmers Federation front company to establish a union busting stevedoring company at Webb Dock, Victoria,
>
> and calls on the Federal Government and the National Farmers Federation to recognise that just and fairly negotiated settlements between management, unions and the workers involved can achieve more in terms of productivity and improved labour relations, as witnessed by the achievements at the Port of Adelaide, than by the use of the jackboot.

My motion refers to the debacle we have seen in the form of an industrial relations dispute at Webb Dock. This motion also mentions the fact that the Port of Adelaide certainly has not come into the dispute to this time, and we hope that the Port of Adelaide can be isolated from any activities that have taken place at Webb Dock. That is not to say that there will not be some calls for solidarity from the waterfront if the dispute—

The Hon. Diana Laidlaw: Are you saying that the members of the maritime union in Adelaide might well separate themselves from actions that might be taken nationally?

The Hon. T.G. ROBERTS: No; I am saying that the management system and productivity levels that have applied at the Port Adelaide dock over the years provide a good example of enterprise bargaining where there is respect among the stevedores, the Port Authority, the waterside workers and their representatives, as opposed to the debacle which is now occurring at Webb Dock and which previously occurred in Cairns. I will give a brief overview of some of the activities and timeframes that have occurred, and we will see that it is not an issue of industrial relations, improved productivity or benchmarking so that international best practice can apply within the international stevedoring industry: it is a blatant attempt by a Government to start a political and industrial campaign in the lead-up to an election so that industrial relations can be one of the key and major factors in the lead-up to that election. It will culminate in a call for attention around the dock in relation to law and order. It is disappointing that the community has been dragged down to that level of dispute, because over the previous 15 years a fairly mature approach had been taken to industrial relations and communities were working together to solve common problems.

The Hon. R.R. Roberts: Like in South Australia.

The Hon. T.G. ROBERTS: We could probably use South Australia as a good indication of how rural and industrial interests, industrial relations and the problems associated with the struggling rural industries were brought to the notice of the people in the metropolitan area over the past 15 years by cooperation at a political and industrial level, culminating in the Trades and Labor Council going to the West Coast when the West Coast was having its worst problems with drought and rural poverty. Everybody worked together with a common approach to dispute settlements to try to get common solutions to the problems, and helped each other to get through.

That was certainly broken down when in 1996 the first discussions occurred among Peter Reith's office, Patricks Stevedores and P&O ports. It is my understanding that the discussions resolved around trying to break the grip of the MUA, or the industrial representatives of the workers involved on the waterfront, trying to break down their conditions and wages and their ability to negotiate by using strike breaking organisations in the Port of Cairns. That was a total debacle, because the company that was being used was being introduced as an agent provocateur to facilitate a process that it did not believe in itself. When the first signs of the dispute started to manifest themselves, the stevedoring company withdrew and the Port of Cairns was returned to normal and it has been operating normally ever since. Probably Cairns was picked because it was an isolated port in north Queensland, that being a relatively conservative State in industrial relations. Northern Queensland being a conservative part of a conservative State they thought they might have a victory, but the Cairns workers stuck together and headed off the attacks that were artificially manufactured and put in their way to try to get a dispute in that port.

Peter Reith's department was disappointed in that initial skirmish, so it then decided to train up to 80 trainees in Dubai and to try to get another beachhead established somewhere on the waterfront, probably on the eastern seaboard and possibly in another port that was in a weakened state, such as Geelong. But it bobbed up in the centre of the industrial web in Melbourne at Webb Dock. On the first attempt, the trainees were sent to Dubai for training by a dubious company—to a country that is not particularly associated with human rights—and there was not only a national but also an international outcry that made the organisers of that operation withdraw. The trainees were recalled back to Australia with their tails between their legs. Many of the trainees were

previous or current serving members of the armed forces, and many commentators pointed out that they were agents provocateurs who were picked not only for their muscles and skills but also for their ability to defend themselves and to attack others.

That was seen as an unusual step in industrial relations in Australia. It was more like the industrial relations system that was running in the United States in the 1930s and 1940s, when union busting tactics were developed by the Pinkertons and other forces in the United States, where not only muscle but arms were used to strike-break and escalate the divisions between capital and labour. That was a total debacle and on 28 January the waterside workers at Webb Dock were told that their labour was no longer required and the gates were locked. A confrontation was then set up in the heart of the industrial State of Victoria. The real story did not start to emerge until the dispute took off in Victoria, when information started to trickle through that it was not an isolated incident or a case of the Government wanting productivity gains made at the expense of an agreement which had been signed and on which the ink had hardly set.

It had another element introduced. It was not the trainees from Dubai any longer but the National Farmers Federation providing these hardened unemployed people, who we are led to believe by the media were all from rural areas and were part of rural decline and were prepared to work on the dock around the clock for a reasonable pay for a reasonable day's work and that it would be un-Australian to stop them from going about their normal business. When the pieces were put together it was found that the stevedores—Patrick's—the office of Peter Reith and the National Farmers Federation had been collaborating and it was a conspiracy to undermine the wages, conditions and security of legitimate workers going about their legitimate business in a democratic way, namely, the waterside workers, the MUA negotiators and representatives and on the dock of Patrick's in Melbourne.

The provocative action that then took place was that under Australian industrial relations negotiations are usually set up when a dispute occurs. This was not the case. The negotiations were not carried out as they normally would be because the dispute was a manufactured dispute. The provocateurs wanted an outcome. They wanted the people of Australia to see confrontation on the docks. They wanted to see bloodshed, wanted confrontation and wanted the television cameras to pick it up, beam it into everybody's lounge room and show what a nasty bunch of violent people waterside workers are when confronted by scabs and strike breakers. This did not happen, although some incidents were captured by television where striking workers protecting their legitimate roles as union members defending their jobs were confronted. Some personal injuries occurred as a result of confrontations with large trucks and certainly the sight of strike breakers being equipped with helmets and truncheons, supplied I understand by Jeff Kennett's warehouse of supplies, probably from the Police Force, did not go too well for a settlement in the early stages of the dispute.

The dispute finally got into the commission and it was found, surprise, surprise, that the commission did not have the ability to deal with that dispute because the Industrial Relations Commission and the Industrial Relations Act have been changed and emasculated to a point where they are no longer able to be effective in dealing with disputes of that nature. We now have a stand off. I suspect that the money the National Farmers Federation and other supporting organisations will be able to supply will enable the strike breakers and their supporters to put pressure back onto the MUA and the waterside workers.

The next round of the dispute will be that a call will go out to all industrial workers and supporters in Australia to raise funds for the other side and there will be a stand off. The courts will be very busy. The courts will be much busier than the docks because it appears at this stage that the waterside workers and their representatives have decided that they will draw a line in the sand in relation to the conspiratorial attempts to undermine their livelihoods and it will be fought out at Patrick's docks at Webb Dock in Melbourne. If there is to be a change in heart and attitude I have not seen it coming from any signals being sent by those involved in the dispute.

In the lead up to this next election, which apparently will be sooner rather than later, the softening up process for an industrial relations trial by confrontation will unfold in front of our eyes at a time when Australia's exports are so badly needed for so many people in relation to the economic and financial crisis that is developing in this geographical regional as we speak.

It makes one wonder why the industrial relations system would be tested in Webb Dock in Melbourne using a provocative action by the National Farmers Federation and Peter Reith's office in confronting a traditionally militant organisation such as the waterside workers or the MUA at a time when one would think that a Government such as the current Federal Government would be looking for as much cooperation as it could get at a very difficult time. Not only do we have the economic and financial crisis that has been brought about by the meltdown of the Asian economies but we also have the Prime Minister sending off 200 trained soldiers to fight alongside the Americans in Iraq. At a time when one would think that we could get some unity of purpose about our future economic direction and that some cooperation could be pulled together between capital, labour and Government, we have a deliberate wedge being put in between capital and labour and Australians now arguing against Australia in relation to the outcome.

The perils of these manufactured circumstances, with vested interests as determined as the National Farmers Federation and a Peter Reith conspiracy, is that nobody knows how the final trailers for this picture will end. It is a gamble and many members on this side think it was totally unnecessary and totally provocative and there will be no winners in the whole of this process. If the National Farmers Federation has decided at this stage that there needs to be selective deregulation in the labour market and is so determined to make that happen, it is a responsibility for all of us to point out to the National Farmers Federation members—whose members I do not think are as supportive of the action as is the executive—that selective deregulation in the labour market may lead to unmitigated disaster for the National Farmers Federation, if we look closely at some of the regulations that protect the National Farmers Federation's affiliates in relation to the way they go about their business on a day-to-day basis with the number of interventionist subsidies they enjoy and have had over a long period.

Those of us on this side have agreed that farmers in particular industries require and need subsidies and intervention to allow them to survive. While there is a fair share of the distribution cake, as to those initiatives that have been taken over a long time no-one will be looking at or arguing that they be dismantled because many struggling farmers will end up without that intervention and free market forces would

ensure that they could no longer survive. We have a selective call by a very privileged section of the National Farmers Federation suggesting that we do away with the selective interventionary processes that perhaps a section of the work force enjoy to ensure that the confrontation brings about the results that they require. It is a gamble and a very big gamble.

Traditionally Australia has been able to settle its disputes internally between the classes by negotiation and there tends to be a fair amount of respect by each section's leadership for a negotiated settlement. Unfortunately in this case there is no sign of respect from the NFF, Peter Reith's department, his office and the labour movement, and all that will do is harden attitudes.

I will now outline some of the furphies that have been put around to soften up the Australian public in relation to these so-called $80 000 to $90 000 a year wharfies. They have been portrayed as being a gang of thugs who are outside the control of the industrial relations system and somehow set apart from the rest of the community by the fact that they are in a privileged position, almost equal to that of the executives of some of the agricultural companies.

Myths have been put about that wharfies are extremely privileged and earn more than $80 000 a year for doing almost no work—and this information comes from a flier put out by the MUA in defending its position. The fact is that the average award rate for stevedores is about $30 000 a year for a 35 hour week. In big container terminals workers earn good wages by working up to 80 hours a week at all times of the day and night because the employers have refused to employ more staff and demand that workers do excessive overtime.

That is an industrial relations struggle not only in the wharf industry but in a lot of industries where the employers refuse to employ more staff because they prefer their employees to work longer hours. That is a situation that the wharfies or the MUA could work out at a later date through collective bargaining.

Another myth is that the NFF's company is a sincere attempt to bring competition to the wharves and to the battling farmers who need to be able to export their produce. The fact is that Webb Dock handles no real produce at all. The company moved into the wharf in the dead of night with a private army of batons and riot shields, then locked out the workers who were rostered to work there. That is the essence of the dispute. Other furphies have been put about which my colleagues will touch on when they make their contributions. I am sure that the dispute will not be settled quickly: I would be very surprised and very pleased if it were. I am sure that the relationship between the employers and the wharfies will never be the same.

Workers in other organisations will look with suspicion at an industrial relations system which allows for enterprise bargaining agreements to be signed and registered and within a short period of that for employers to conspire with the threat of bodily confrontation, and perhaps even worse, to break down wages, conditions and agreements and for strikebreakers to be brought in and lockouts pursued.

As I said, it is the United States of America in the 1930s. What grew out of that was industrial control resulting in the buying of organised labour through the Mafia and other organisations which moved in to protect workers from physical damage brought about by picketers. If we want to go down that track I suspect that that is where it will end up if there is no intervention. However, if we want to negotiate a reasonable settlement, as we have in every other dispute that has emerged in Australia over the years, where capital and labour sit down with their representatives and come away with an agreement which everybody can live with, then I recommend that that would be the way to go.

I apologise for talking longer than I said I would. My colleagues will add weight to my contribution during the coming weeks. Let us hope that by the time we come to vote on this motion we will no longer have to do so and that a settlement will be drawn up on the docks through the representatives of both capital and labour within the next four weeks.

The Hon. A.J. REDFORD: I rise to make a couple of short comments about the honourable member's contribution. This is the first time since this dispute has arisen that we have seen anyone on the Labor side stand side by side with the so-called oppressed workers. There had been a complete absence of comment or degree of support from the Labor Party until the Hon. Terry Roberts stood up and made his contribution. I draw the following exchange to the attention of this place. It occurred a few days ago when a reporter interviewed Bob McMullen who, on other occasions, has been quite outspoken on industrial relations issues. The reporter said:

> You have been awfully quiet on the wharfies battle, if you don't mind me saying so. Do you unequivocally support the stance taken by the ACTU?
>
> Bob McMullen: Well, it's not a question of unequivocal support.

That has been typical of the ALP's approach to this issue. It has sought to obfuscate the issue. The fact is that despite numerous comments by the former Keating Government on the topic of microeconomic reform the ALP has singularly failed to deliver it other than, perhaps to some extent, in the port of Adelaide—and this State Government had more to do with that than anything else. It failed to deliver the productivity gains so sorely needed by our export industries.

It is well and good for the workers on the wharves to sit there and say, 'We are not going to change. We are not going to reform,' whilst my constituents and your constituents, Mr President, in rural South Australia, most of whom are exporters, have to put up with this sort of productivity. They are expected to achieve world standards and if they do not achieve it they go broke: the bank takes them over. The workers on the wharves seem to think that they operate in a different environment.

The Hon. T. Crothers interjecting:

The Hon. A.J. REDFORD: The Hon. Trevor Crothers interjects. I am sure that he would be interested in this information. For 50.3 hours, an average working week, a crane driver on the wharf spends 14 hours on relief time and other duties; 10.5 hours go towards holidays and sick leave; 8.5 hours are spent idle or on training; and 3.2 hours are for paid meal breaks. That leaves only 14.1 hours, or 28 per cent of the paid hours, for the worker to do what he or she is supposed to be doing—driving the crane. All this occurs on incomes between $60 000 and $80 000 per annum. This is what exporters have had to put up with for 20 or 30 years. People on small farms—wool growers, meat and beef growers, small exporters—

The Hon. R.R. Roberts: There are no subsidies for them, are there?

The Hon. A.J. REDFORD: The Hon. Ron Roberts interjects and says, 'There are no subsidies for them,' and I could not agree more: there are no subsidies for them.

The Hon. R.R. Roberts interjecting:

The Hon. A.J. REDFORD: I challenge the Hon. Ron Roberts in the course of this debate—and I will make sure

that this information is put in the Port Pirie *Recorder*—to list the Government subsidies that are provided to these rural exporters. These people have to bear the brunt of the more ridiculous work practices that are inflicted upon the Australian public. It is all well and good—

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: It is all well and good to sit there on a picket line side by side with these $80 000 to $90 000 a year workers in the so-called name of solidarity, but it is people like us out there with the real battlers in the community—the primary producers—who have to pick up—

The Hon. M.J. Elliott: Shoulder to shoulder.

The Hon. A.J. REDFORD: 'Shoulder to shoulder' says the Hon. Mike Elliott, and I am proud to say that I do. I go shoulder to shoulder with those battlers, endeavouring to support them in their difficult enterprise.

Members interjecting:

The PRESIDENT: Order! The Hon. Ron Roberts will have plenty of opportunity to make a contribution to the debate to support his friend, the Hon. Terry Roberts. I suggest that he keep his comments to his later contribution.

The Hon. A.J. REDFORD: I well remember acting for a small businessman in the wine industry some 12 years ago, when he had managed to secure a significant export order to Singapore—indeed, one of the first export orders of wine from this State to an Asian country. He secured an order of some five pallets, and the wine was bought for the purpose of the Chinese new year. Owing to various delays on the waterfront—and I am pleased to say that that has not occurred of late on the Port Adelaide waterfront—the wine did not get there until March or April. As a consequence, all future orders from that overseas customer were cancelled, and that wine maker, an Italian immigrant who had worked hard for 30 years developing that business, went into liquidation.

So, when I see these people standing in picket lines and claiming their $80 000 to $100 000 a year, claiming their meal breaks and strike allowances, I visualise very clearly that Italian wine grower in tears announcing to his legal advisers and accountants that he had no alternative but to close the doors and, as a result, a very valuable enterprise in this State went by the way—all because of the greed of the Hon. Ron Roberts's mates. If we talk efficiency in relation to waterfront reform—

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: The honourable member wants to talk about my fees. In fact, I did not ask for fees, but if my client did have fees they would have been made available to sue the relevant union so that it suffered the cost of what my client had to suffer. If the honourable member wants to make banal interjections on the basis of whether or not I get paid, it does not matter. The fact is that this union has been responsible for putting so many small businesses into liquidation and costing so many small producers sorely needed income, and it is time that someone stood up to it. I applaud what the National Farmers Federation is doing—not for what the Hon. Terry Roberts says are the big boys but for the little fellows, the fellows who might have 50 or 60 bales of wool to export, for the fellows who have a few live sheep which might make a difference between bankruptcy or not and for those fellows who have been the backbone of this country for so long and who have been bled by people like the waterside workers for so long. I applaud the National Farmers Federation and the responsible and reasoned approach of Mr Reith and the Federal Government.

The worst part of this matter has been some of the lies told by the waterside workers during the course of this dispute. They sit there and say, 'We are doing all right.' However, they pick out the worst case scenario in this country and say, 'We are comparing very well with them.' It is no different from comparing one bad apple with another bad apple.

Information provided in the Melbourne *Herald Sun* on 31 January indicated that Singapore is top in reliability, speed and value for money. Brisbane is 14th for reliability, 13th for speed and 14th for value for money. If our wharf workers were a cricket team, the Adelaide Crows or some other sporting agency they would be sacked as complete failures. We do not expect this level of service from our exporters, nor do we expect it from our sporting people. However, because members opposite want to stand side by side, as a result of some outmoded comradeship, we are expected to cop it sweet and watch our rural colleagues go broke. Sydney is 18th on the list—

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: One could hardly say that a prominent trading nation such as Australia could possibly continue to put up with that poor and appalling level of performance. A ship holding, say, 700 containers must pay about $64 000 simply to unload those containers and $1 000 to get a container out of a boat with a crane— modern equipment—onto a wharf and into a position where it can be shifted out by truck. That is the sort of work practice that the Opposition would seek to support. Indeed, it is interesting to note that members of the Labor Party in Canberra are not prepared to justify it, but they put up members opposite to do it.

I give another example of some of these work practices. A fellow can on a Saturday work 15 hours, of which 2½ hours involves paid meal breaks, 4½ hours other duties and eight hours driving the crane. For the eight hours on site, on the double-header he gets paid for 33.75 hours or $611. The average Australian earns only $600 for a week's work. Is it any wonder that he earns only that much because of the sorts of impediment that the wharfies have inflicted upon this country for decades?

The Hon. R.R. Roberts: Don't you know about industrial agreements?

The Hon. A.J. REDFORD: The fact is that the National Farmers Federation does. That is the pleasing part about it. The National Farmers Federation does know about it, yet the waterside workers are seeking to hinder it in its lawful pursuit of a competitive business; and that is their right and entitlement. I cannot understand how the Hon. Ron Roberts can possibly support this.

Indeed, what is so pleasing about this and what has obviously escaped the attention of the Hon. Ron Roberts is the role that Cheryl Kernot has played in all this. With the assistance of her then Democrat colleagues and Peter Reith, she was instrumental in allowing the sort of industrial legislation to pass to enable the National Farmers Federation and other employers in this community to secure a better deal. To that end, I am sure the Hon. Michael Elliott, when it comes to him to make a contribution on this topic, will congratulate then Senator Kernot for her role on that occasion, and I am sure a letter from the Leader of the Opposition, Kim Beazley, is winging its way as we speak to members opposite to tell them to back off on silly motions such as this.

It was interesting the other day to hear Mr Ron Longley, a significant New Zealand shipowner, comment on the

Australian waterfront. In relation to the high costs and poor service of Australian ports, he said:

The bottom line is that it makes our exports [being Australia's] more expensive and gives New Zealand a competitive edge on the export market.

The Hon. T. Crothers interjecting:

The Hon. A.J. REDFORD: The honourable member interjects. If the National Farmers Federation was given a clear go at this, I am sure we would see significant agricultural products go through. I have another example. We call this the 'How to be well-dressed in the tropics rort' by the waterside workers in the tropics:

Under the award, waterside workers at Townsville are entitled to be provided with the following clothing: rabbit fur broad-brimmed hat; safety boots; safety Wellingtons; shorts and trousers; shirts, long and short sleeved; overalls, issued clean at work daily; a winter jacket; safety vest; hard hat; sunglasses; safety glasses; dust mask; work gloves, one pair per shift; sun block-out; sun visor; raincoat with leggings; towels for showering; nylon carry bag, large.

They are issued with the requisite clothing for the shiftwork prior to the start of the shift, and they refuse to begin dressing—and I am sure they do not put it all on at once—until the shift starts. Imagine the Hon. Ron Roberts coming to Parliament, nude, and refusing to start his work until he got dressed. That is the sort of thing with which they must contend in this industry.

I have yet another example. If the local union official wants to put pressure on shipowners, they routinely find things wrong with the ship. A classic card play is the safety issue. They normally point to the gangway and say that it is not safe. Last year, the Columbus Line was subjected to the gangway rort. The *Columbus Victoria* was berthed in Patrick's Botany Bay terminal. It is the same ship, with the same gangway, that has been calling there for 15 years. Suddenly the way the gangway was rigged did not suit. It took two hours to sort it out before any wharfies would climb the gangway and commence work. Since then, the ship has called several times with the gangway net rigged exactly as it was on the day prior to the rort. There have been no problems or complaints. However, perhaps there was a cricket match or a football game during that two hours and, during that time, they were paid. This is ridiculous, and the Opposition at State level should get side by side with its Federal colleagues, go very quiet on this issue and allow the National Farmers Federation to support those exporters and those farmers who have struggled for 20 to 30 years to develop a reasonable living standard. That is what this debate is all about.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

[Sitting suspended from 5.58 to 7.45 p.m.]

REPUBLIC

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

1. That Australia should become a republic with an Australian citizen as Head of State; and

2. That the concurrence of the House of Assembly to this motion be requested.

I placed this motion on notice prior to Christmas. Since then, I have had an opportunity to be one of the three State parliamentary representatives to the Constitutional Convention. I was grateful to have the opportunity to be a part of that convention and to look at the question whether or not Australia should become a republic. Importantly, the question put to that convention was that if Australia was to become a republic in what form should it do so. Having had the chance to participate in that convention, I look forward to the opportunity to speak to the question and reflect on the convention and some of the issues that were raised during that time.

Four options were put forward at the convention as to where the people of Australia could go from here regarding becoming a republic. The first option was no change, and the monarchists who were at the convention argued: 'If it ain't broke, don't fix it. Things as they stand now are absolutely perfect, and there is no need for any change.' There were the three republican options. One was known as the McGarvie model, named after Mr McGarvie, a former Governor of Victoria. That is a mini-minimalist approach, whereby a Head of State was to be appointed by a body of three eminent persons and, as he saw it, three eminent persons were people who were former Governors, High Court judges or people of that ilk.

The next model was known as the bipartisan model, whereby the Head of State would be chosen by a special two-thirds majority of a joint sitting of the two Houses of the Federal Parliament but basically keeping the same powers as are currently held by the Governor-General.

Under the third republican model, the Head of State would be elected by popular election. Of course, that had some submodels in terms of who could nominate and whether or not there was some filtering process for the nominees. There was also some division within the group as to what the actual powers would be. There was one subset within that group—although they did not really expand on their beliefs—who believed that we should move towards the American system of Government whereby one has a Head of State with very real powers that would be exercised—a power of total veto over the Parliament—and who might be responsible, rather than having Ministers within the Parliament, and having people appointed by the President outside the Parliament. Then there were others who wanted a direct election but really did not want to see the powers of the Head of State significantly changed on those at present. As I said, there were a couple of submodels within the direct election approach.

In my view, the first question that needs to be resolved is, 'Why would you want to change?' The second question is, 'If you do change, what powers do you want the Head of State to have?' Having determined the answer to that question, you then ask how the selection process might work. I will look first at the question of why the change. It is largely a question of symbolism, but not an unimportant one. If you wish to become the true head of State of Australia, you need, first, to be British. If you are not, you are not a member of the royal family and to be a member of the royal family you are British. You inherit the position.

Members interjecting:

The Hon. M.J. ELLIOTT: Yes, but you are at least a British—

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: That is where I am heading. You have to be British and so it is very definitely ethnically based. You have to inherit the position. Your chances of inheriting the position are greatly enhanced if you happen to be male. The chances are probably about 9:1 in favour of it being a male. It is only if you happen to have no brothers and you are the eldest of the children of the current monarch that you get the chance to be the monarch yourself. Also, you have to be a member of the Church of England. Not only that,

you need to be married to a member of the Church of England. The symbolism to be the true head of the State of Australia requires you to be British, that you inherit the power and being male is a definite advantage and you must be a member of the Church of England.

All of that bias would not obey laws of this nation or State. We have laws in relation to discrimination on the basis of race, gender and religion and so the symbolism is not unimportant. It is crucially important and it is a symbolism that is not lost on Australian citizens generally. It is a symbolism that is not lost on people overseas either. Having argued that it is for the most part symbolism, but an important symbolism, certainly I have not taken the position that we need dramatic change in the power structures of the head of State relative to the Parliament. At this stage I am still a supporter of the Westminster system and the way it functions in general. I seek to have a person in the position of head of State who is an Australian citizen and who does not rely upon gender or their religious background as to whether or not they have any chance of becoming the head of State and certainly they do not need to inherit the position, which is an anathema in any genuine democracy. It is not a question of wanting to deny our history: history is immutable. Certainly, it is true that some people try to rewrite it from time to time but it is not a matter of denying history or failing to recognise the many benefits that Australia has inherited from Britain in terms of its democratic systems, but it is a matter of recognising that times have changed and that change in this area, in particular, is long overdue.

If one takes the position that one is not looking for a radical change in terms of these structures and not looking for a radical change in the powers of the head of State, I would argue that immediately the popular election model is ruled out.

The Hon. P. Holloway interjecting:

The Hon. M.J. ELLIOTT: No, I voted for the two-thirds special majority.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: I will answer that question in due course. I think a popular direct election is relevant if you are trying to elect a political figure. If you are electing a person whom you wish to exercise political power in the broad sense, a person who will influence education, health and the like, you would not want that person to be appointed: you would want that person to be elected. The overwhelming majority of delegates at the convention—90 per cent of them, and I think that would be true of the Australian public—are not looking for a president in the model of the United States system. If you were, you would have to have popular election. On the other hand, if you are looking for a person who is to exercise the same sorts of powers as the current Governor-General, and they are fairly limited but important powers dealing with questions concerning the appointment and sacking of governments and the calling of elections, that role is almost more of a judicial or umpire type role and not a role that you would want to have played in a partisan fashion.

The danger of a popular election is that it is a winner takes all system. There is no way known that political Parties or other major power groups in our society will stand back and watch a popular election put up someone who is not likely to do what they do. The danger of a popular election in this circumstance is that you are electing a political person likely to be a Party partisan person to a position that you would prefer not to be Party partisan. In Australia we have been fortunate with Governors-General and with Governors at the State level because they have not been Party partisan and have played the umpire role. I think most Australians want that to continue and I just cannot see the point in having a popular election for a person to fulfil that sort of role because I cannot see any positive sides. The person is not in a genuine position to influence policy and the like but is to play an umpire's role.

The McGarvie position I largely dismissed and I think it was overwhelmingly dismissed by the convention. In fact, it had the true support of about 20 or 22 of the 152 members of the convention. It was seen as being rather elitist in terms of the way a small group were doing the choosing and those people were not in any way accountable to anyone.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: It depends on what their role is. I am trying to keep this as brief as possible. I am running briefly over the arguments put at the convention. The final model is the special majority model. This is the model I supported and it had by far the strongest support of those who supported the republic. I would say about 55 to 60 per cent of the people who supported a republican model supported that model, with the rest equally divided between the McGarvie and the direct election models which, I would argue, were on either side of that model. I believe the model I supported was something of a middle position. The perceived strength of the special majority model is that if a person is to be appointed with a two-thirds majority of a joint sitting of both Houses, then that person is not going to be appointed by the Government alone but will be supported by approval of Government and Opposition.

In those circumstances one would not expect the person to be nominated in the Parliament and to then have a debate during which the person's character would be carved up. You would expect that there would have been a decision made beforehand. At the convention I did not support this part of the model that was adopted, but the convention looked at a process by which selections and nominations were made to the Prime Minister. There is no doubt that there was no support at the convention for having a debate within the Parliament of the relative merits of any individual being appointed. You do not want someone like Sir William Deane being nominated and having their whole life discussed in the parliamentary process. People like that would not put up their hands. One would expect that agreement had been reached before going into Parliament. A special majority will be achieved so long as a two-thirds majority of the Parliament is of the view that this person is not going to behave in a partisan fashion. The original model put forward by the ARM argued that it would take a two-thirds majority of both Houses to remove the head of State, but that was not carried by the convention. The convention adopted the view, which I supported, that the Prime Minister should be able to seek just majority support in the Lower House and, being the Prime Minister, one would think that the Prime Minister had that support anyway, to remove a president.

Some people were concerned that that was giving too much power, but of course the Prime Minister has a special problem if that power is abused, and the first problem is that they would have to appoint another president. Frankly, if they were making an appointment for political reasons, that would cause problems later, and I do not believe using a simple majority in the Lower House is giving too much power to the Prime Minister. Where the president has gone off the rails it does provide for a rapid procedure for removal—a procedure

which will be debated in the Parliament and which is open to scrutiny, and ultimately a political judgment will also be made at election time if a Prime Minister has abused that power. In the interim, I believe that the proposal is to follow what is standard methodology now: the most senior Governor around the States would step into the president's position while the new president was being appointed. My expectation is that that sort of thing would happen about once in every 200 years. I think we have gone 100 years without a Governor going off the rails, and my best guess is that we will probably manage to get through one or two hundred years without that happening. You never know; that is why mechanisms must be in place.

I have made a very quick discourse over the various models, but they are worth looking at. I am aware that at this stage opinion polls have shown overwhelming support for popular election. I may be wrong, but I am not convinced that the full ramifications of popular election have yet been really scrutinised publicly. It is all very well to conduct an opinion poll where a person is asked, 'Would you like to popularly elect the president?' That is one thing but, if the poll asked, 'Do you want a president with powers such as those of the President of the United States?', I suspect most people would say 'No'. If you asked the question, 'Do you want a Party political person to be in a position to sack the Prime Minister at his or her whim?', again I suspect that the answer is likely to be 'No'. Recognising that a referendum is still 18 months away, I feel very confident that an education and understanding process, which is already under way, will enable all Australians to give that a great deal of thought.

I was grateful to have the opportunity to be at the convention. It was probably one of the best cross sections of Australians I have seen in one room. On my recollection, among the 152 delegates there were seven indigenous delegates, several Asian delegates and clearly a number of delegates of other non-British origins. On my best recollection there were about 10 to 12 delegates under the age of 25—

The Hon. R.R. Roberts: And Bruce Ruxton.

The Hon. M.J. ELLIOTT:—and Bruce; and to good measure Brigadier Garland, who told us all about how his family had defended various monarchs 800 years ago. We knew whom to blame. The youth delegates were an absolute revelation. The best speeches came from them; they were the least simply dogmatic and the most open minded of the delegates. I believe that the process that was carried out there is worth repeating in relation to future constitutional change. I rather think that the Prime Minister virtually acknowledged that in his closing speech, when he admitted that he had had some reservations about how this process that he had set up was going to work. I think he acknowledged that consultation and consultative processes could change; I think he might even have acknowledged the need for change, and I think that the conference was something of a revelation to him.

The PRESIDENT: Order! Would members keep the background noise down; the lobbies outside are built for that purpose.

The Hon. M.J. ELLIOTT: That was certainly echoed by Barry Jones, who was the Deputy Convener of the convention when he spoke at a dinner the night before it concluded. He reflected on the way the Australian population, its expectations and the way it expects democracy to work are changing. He made quite plain that he could see it working within the convention. We are in changing times, and I think that these changing times will ultimately be reflected not just in a change to a republic but also in a lot of other fundamental changes which are all quite inevitable. Again, as I looked at the youth delegates I could see that quite substantial change is inevitable, no matter how much some stick-in-the-muds will try to resist it. The reason why I think it is important that we debate the issue here in the State Parliament is that it is a question that must be resolved—

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Don't be ridiculous. You wouldn't do it today with all the ETSA stuff going on if you were after press coverage.

The Hon. A.J. Redford: You didn't know it was happening yesterday.

The Hon. M.J. ELLIOTT: I could have decided not to speak this week, so don't be ridiculous. It is important first because, for the question of the republic to be carried, it must to be carried by a majority of people in the majority of States. As such, what each State does and the way in which its Parliament and its parliamentarians behave will have an effect upon the success of that vote. It is also important that the State start thinking about what it will do. We cannot wait and say, 'Oh, we've just become a republic; what will we do now in South Australia?' South Australia itself must set in train what we will do if Australia becomes a republic. What will we do in relation to our Governor? Will we remain a monarchy as a State while federally Australia becomes a republic? We must answer that question, and we must put in train the same sorts of processes that are happening at a Federal level at the State level, and ask ourselves whether, if Australia becomes a republic, South Australia will also become a republic. If so, how will the Governor be chosen? Those questions are important here. For that reason the debate is very relevant within the State context. It is something we cannot leave until the referendum is carried out at the Federal level before we start putting in train how we will react.

With those few words I make plain that I have supported the call for a republic. I have supported the use of a special majority for the appointment of a head of State and a simple majority of the Lower House for removal. I had some reservations about some of the other bells and whistles put on by the convention, particularly in terms of nominations.

The Hon. A.J. Redford: And every time a new Government is elected they will automatically use their simple majority to get rid of the Governor or the president?

The Hon. M.J. ELLIOTT: They can, but they have a small problem of having to appoint another one; they need a two-thirds majority to do it. You have a chance to speak later, so do it then. I have made plain the simple aspects of the model that I support. I urge members of this place to support the motion that Australia become a republic and also ask them to involve themselves in the process of asking the question: 'If Australia becomes a republic, what of South Australia, and what processes will we adopt?' I urge members to support the motion.

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

STATUTORY AUTHORITIES REVIEW COMMITTEE: ANNUAL REPORT 1996-97

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

That the report be noted.

(Continued from 10 December. Page 182.)

The Hon. CARMEL ZOLLO: I am very pleased to have been appointed to the Statutory Authorities Review Committee and look forward to a challenging period of service. I congratulate the Hon. Legh Davis on his appointment as the Presiding Member of the committee. I am also delighted to be on a committee with my experienced colleague on this side, the Hon. Trevor Crothers. The annual report for 1996-97 shows that the committee had a very busy year last year. I noted that the review of the Legal Services Commission was very productive and am pleased that the committee's recommendations in identifying the need for increased funding for the Legal Services Commission, especially in the area of particular concern to women, met with some success. I also noted the cooperation of the now Minister for Justice, and am heartened that the work of the committee can make some difference.

For many South Australians the advice and legal work performed by the Legal Services Commission is their lifeline. Follow up on the report, 'Timeliness of Annual Reporting by Statutory Authorities', tabled since the end of the financial year could in my view be the committee's most challenging task. The committee again recommended the establishment of a comprehensive register of all South Australian statutory authorities and bodies to assist in the annual reporting process. I find it somewhat incredulous that South Australia does not have a public register of all its statutory authorities. It seems that once information is input on a database all one has to do is update it regularly.

The mandate sought by the previous committee to widen our authority to be called the Statutory Bodies Review Committee rather than the Statutory Authorities Review Committee is a very important one. It would be sensible for all statutory authorities to be brought under the ambit of the committee and it is hoped that this will assist in compiling an annual list of boards and committees.

As a woman I read with particular interest the committee report tabled on 6 May last year which in part looked at gender compositions on Government boards and committees. I agree that the target of equal representation on all Government boards and committees by the year 2000—now less than two years away—will prove to be a difficult one. I was pleased to hear His Excellency's opening address that the Government remains firmly committed to this goal of equal representation, which has the full support of the Opposition.

The committee's report identified a number of strategies to assist in improving women's representations on boards, some of which are already in place to help achieve this goal. I hope this issue is one which the committee can revisit at regular intervals to ensure that this very important agenda has the support it deserves. At the December 1997 meeting a decision was taken by the committee to continue with the inquiry into the Commissioners for Charitable Funds. I look forward to the continuation of this review and, indeed, it has continued.

The Hon. L.H. DAVIS: I thank the Hon. Carmel Zollo for her contribution. I welcome her to the committee, along with the Hon. John Dawkins who became a member of the committee following his election to the Parliament last October. The Hon. Carmel Zollo has accurately pinpointed some of the important issues that the Statutory Authorities Review Committee addressed in its recent reports. We will pursue those issues in the current session and look forward to producing reports which will benefit not only the Parliament but also the community.

Motion carried.

TOBACCO PRODUCTS REGULATION (LICENCE FEES) AMENDMENT BILL

The Hon. K.T. Griffin for the **Hon. R.I. LUCAS (Treasurer)** obtained leave and introduced a Bill for an Act to amend the Tobacco Products Regulation Act 1997. Read a first time.

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

That this Bill be now read a second time.

Without wishing to create a precedent, but in view of the fact there are seven Bills to be introduced, on this occasion I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill repeals those provisions of the *Tobacco Products Regulation Act 1997* that relate to the imposition of *ad valorem* licence fees.

On 5 August 1997 the High Court held that New South Wales tobacco franchise fees were invalid under section 90 of the Australian Constitution. While the South Australian Acts were not necessarily invalid, the decision left such doubt over the constitutional validity of business franchise fees on tobacco, petroleum and liquor that the States and Territories had little choice but to cease collecting them.

As a result of this decision States and Territories faced an annual revenue shortfall in excess of $5 billion and were exposed to potential claims for many billions of dollars of refunds of fees paid in the past. These revenues have been used in the past, and are needed in the future, to finance expenditure on roads, health and education services.

The revenue loss to the States and Territories meant that there was no alternative but to ask the Commonwealth to use its taxation powers to collect revenue previously raised by State and Territory business franchise fees on tobacco, petroleum and liquor and to introduce windfall gains tax legislation to protect the States and Territories from exposure to refund claims.

The Commonwealth has agreed to this request on the clear understanding that the States and Territories will repeal the relevant provisions of their business franchise fee Acts, with effect from the dates on which the increases in Commonwealth excise and wholesale sales tax were imposed on each of the affected products.

This Bill puts that commitment into effect. Separate amending Bills are being introduced to remove the *ad valorem* licence fee provisions of the *Petroleum Products Regulation Act 1995* and the *Liquor Licensing Act 1997*.

I commend this Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of this measure on a day to be fixed by proclamation.

Clause 3: Amendment of long title

This clause amends the long title of the principal Act. This change is consequential on the removal of *ad valorem* licence fees.

Clause 4: Amendment of s. 3—Objects of Act

This clause alters the objects of the principal Act. This change is consequential on the removal of *ad valorem* licence fees.

Clause 5: Amendment of s. 4—Interpretation

This clause removes definitions that are made unnecessary by other clauses of this measure.

Clause 6: Repeal of s. 5

This clause repeals the application provision. This change is consequential on the removal of *ad valorem* licence fees.

Clause 7: Substitution of Part 2

This clause removes the provisions relating to the imposition, assessment and recovery of *ad valorem* licence fees and substitutes new sections.

PART 2

LICENCES

6. Requirement for licence

This section makes it an offence for a person to carry on the business of selling tobacco products by retail, or to hold himself or herself as carrying on such a business, without holding a licence under the Act. The maximum penalty is $5 000.

7. Issue or renewal of licence

This section empowers the Minister to issue and renew licences.

8. Licence term, etc.

This section provides for the term of a licence to be one year and allows a licence to be renewed for successive terms of a year.

9. Licence conditions

This section empowers the Minister to fix and vary conditions on licences and makes it an offence for a person to contravene or fail to comply with a condition of a licence. The maximum penalty is $5 000.

10. Form of application and licence fee

This section requires an application for the issue, renewal or variation of a licence to be made in a manner and form approved by the Minister and contain the information required by the Minister. It also requires an applicant to provide any information that the Minister reasonably requires for the purpose of determining the application, and pay the licence fee prescribed by the regulations.

11. Cancellation or suspension of licence

This section empowers the Minister to suspend or cancel a licence if satisfied that the licensee has contravened the Act or is not or no longer for any reason a fit and proper person.

12. Review of decision of Minister

This section provides a right of review of decisions of the Minister under Part 2 of the Act.

13. Appeal

This section provides a right of appeal to the District Court from a decision of the Minister on a review under section 12.

Clause 8: Repeal of s. 28

This clause repeals an unnecessary interpretative provision.

Clause 9: Amendment of s. 38—Sale of tobacco products to children

This clause makes minor amendments that are consequential on the removal of *ad valorem* licence fees.

Clause 10: Amendment of s. 39—Evidence of age may be required

This clause makes amendments that are consequential on other amendments made by this measure.

Clause 11: Amendment of s. 47—Smoking in enclosed public dining or cafe areas

This clause removes reference to a Division of the Act struck out by this measure.

Clause 12: Amendment of s. 58—Continuation of Fund

This clause makes a minor amendment that is consequential on the removal of *ad valorem* licence fees.

Clause 13: Amendment of s. 63—Appointment of authorised officers

This clause amends section 63 so that authorised officers under the *Taxation Administration Act 1996* are no longer authorised officers under the Tobacco Products Regulation Act. This change is consequential on the removal of *ad valorem* licence fees.

Clause 14: Amendment of s. 65—Power to require information or records or attendance for examination

This clause removes references to the Commissioner of State Taxation. This change is consequential on the removal of *ad valorem* licence fees.

Clause 15: Amendment of s. 66—Powers of authorised officers

This clause removes the power of an authorised officer to seize and retain tobacco products that the officer reasonably suspects have been sold or purchased in contravention of the Act or if the officer reasonably suspects a person of otherwise engaging in tobacco merchandising in contravention of the Act.

Clause 16: Amendment of s. 69—Powers in relation to seized tobacco products

This clause removes references to the Commissioner of State Taxation and makes other changes that are consequential on the removal of *ad valorem* licence fees.

Clause 17: Repeal of Part 6

This clause repeals Part 6 which deals with the use of *ad valorem* licence fee revenue collected under the Act.

Clause 18: Amendment of s. 72—Delegation

This clause removes a reference to the Commissioner of State Taxation.

Clause 19: Repeal of s. 74

This clause repeals section 74 as it is to be incorporated in the new section 6.

Clause 20: Amendment of s. 76—Minister may require verification of information

This clause removes a reference to the Commissioner of State Taxation.

Clause 21: Amendment of s. 78—Confidentiality

This clause amends section 78 so that confidential information cannot be disclosed to State, Territory or Commonwealth officers engaged in the administration of laws relating to taxation or customs.

Clause 22: Amendment of s. 80—Immunity from personal liability

This clause removes a reference to the Commissioner of State Taxation.

Clause 23: Substitution of s. 82

82. Prosecutions

This section limits the period for commencing proceedings for expiable offences against the Act to that prescribed for expiable offences by the *Summary Procedure Act 1921*.

Clause 24: Repeal of ss. 83 and 84

This clause removes provisions dealing with the recovery of *ad valorem* licences fees.

Clause 25: Amendment of s. 85—Evidence

This clause makes changes to evidentiary provisions consequential on the removal of *ad valorem* licence fees.

Clause 26: Amendment of s. 87—Regulations

This clause makes changes to the regulation-making power consequential on the removal of *ad valorem* licence fees.

Clause 27: Substitution of schedules 1 and 2

This clause removes forms. This change is consequential on the removal of *ad valorem* licence fees.

SCHEDULE

Transitional Provision

This schedule provides for a class A licence authorising the sale of tobacco products by retail in force before the commencement of this measure to continue until the expiry of the period for which it was granted or renewed.

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

POLICE SUPERANNUATION (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. Griffin for the **Hon. R.I. LUCAS (Treasurer)** obtained leave and introduced a Bill for an Act to amend the Police Superannuation Act 1990. Read a f irst time.

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

That this Bill be now read a second time.

With the same qualification to which I referred on the last Bill, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill seeks to make a number of technical amendments to the Police Superannuation Act 1990, and deals with issues that have arisen in the administration of the Act. A number of the proposed technical amendments are similar to amendments made in July 1997 to the Superannuation Act 1988.

One of the amendments proposed results from recent amendments to the Police Act, whereby commissioned officers are appointed on contract. As a result of contract employees now participating in the police superannuation schemes, the provisions of the Act relating to the determination of salary for contributions and benefits requires amendment. The proposed amendment will enable contributions and benefits for commissioned officers employed on a contract to be based on the highest salary achieved in either a permanent position or in a contract position. The amendment will ensure that existing contributors to the police superannuation schemes will not be disadvantaged upon appointment to a contract position. The existing principle of benefits being linked to the highest salary paid in respect of a position with the Police Department will be maintained as a result of this amendment.

An amendment is also proposed to deal with the situation where police officers are seconded to positions in another police force or police forces in Australia or in any other country. The Bill defines another police force to include a body established by the Australian Police Ministers' Council, a body established by the Council of Police Commissioners of Australia, all law enforcement agencies, and any other prescribed body. It frequently occurs that a police officer is seconded to work for another policing body with a higher salary being paid to the officer. The current provisions of the Police

Superannuation Act do not however recognise for contribution and benefit purposes, any higher salary that may be paid to an officer under such a secondment arrangement. The amendment proposed in the Bill provides that where a police officer is seconded to serve in another police force or police forces for at least five years, or periods aggregating five years or more, the contributions payable by the officer during the period of secondment will be based on the actual salary received. Furthermore, the officer's final salary for the determination of benefits will be adjusted to reflect any higher salary paid by the other policing agency as a consequence of the secondment.

The other technical amendments being proposed in the Bill deal with issues which have arisen in the administration of the Police Superannuation Act, or are similar to amendments made in 1997 to the Superannuation Act 1988.

The Commissioner of Police, the Police Superannuation Board and the Police Association have been fully consulted in relation to these amendments.

The provisions of the Bill are as follows:

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal

Clause 3: Amendment of s. 4—Interpretation

Clause 3 amends section 4 of the principal Act. New subsection (3a) defines the term "permanent position in the police force" to include a position to which the contributor is appointed on contract for a fixed term. New subsection (6b) provides for the application of subsection (3) to a contributor who has been seconded to another police force.

Clause 4: Amendment of s. 13—Contributors accounts

Clause 4 amends section 13 of the principal Act. Subsection (6) is replaced by a subsection that makes it clear that the Board can estimate a rate of return for the previous financial year where the rate of return for that year has not yet been determined by the Board. New subsection (6a) provides that an estimated rate of return will not be adjusted when the rate is finally determined.

Clause 5: Amendment of s. 17—Contribution rates

Clause 5 amends section 17 of the principal Act. Paragraph *(a)* of subsection (2) is replaced with a provision in the same form as section 23(4)*(a)* of the *Superannuation Act 1988*. The new provision takes into account changes in salary caused by changes in the hours of work. Paragraph *(b)* of the clause inserts a new provision (similar to section 23(4)*(b)*(iv) of the *Superannuation Act 1988*) that provides for the eventuality of a reduction in a contributor's salary after the date on which contributions are fixed and enables the contributor to elect to contribute as though the reduction had not occurred. New subparagraph (iv) allows such an election to carry over from year to year despite the operation of paragraph *(a)* of section 17.

Clause 6: Amendment of s. 22—Resignation and preservation

Clause 6 amends section 22 of the principal Act. The words removed from paragraph *(c)* of subsection (1) are no longer required because of Commonwealth requirements. Paragraph *(c)* replaces paragraphs *(a)* and *(b)* of subsection (1a) with provisions that will now allow a contributor to carry over the superannuation payment to another fund or scheme. The limit for taking the payment is reduced from $500 to $200 and the requirements for payment on invalidity are more specifically spelt out. New subsections (1b), (1c) and (1d) set out a new method for determining the amount of interest accruing on a superannuation payment under subsection (1a). The requirements for payment of preserved benefits on invalidity under subsection (2)*(b)* are more specifically spelt out in the new paragraph *(b)* inserted by paragraph *(e)* of the clause.

Clause 7: Amendment of s. 32—Pensions payable on contributor's death

Clause 7 amends section 32 of the principal Act. Paragraphs *(a)* and *(b)* make amendments recently made to the *Superannuation Act 1988* to deal more completely with the possible circumstances relating to status as a lawful or de facto spouse before termination of the contributor's employment or before the contributor's death. Paragraph *(c)* makes amendments that cater for the amount of the notional pension where the deceased contributor had been employed on a part time basis.

Clause 8: Amendment of s. 34—Resignation and preservation of benefits

Clause 8 makes amendments to section 34 dealing with resignation under the old scheme that are similar to the amendments made by clause 6 to the resignation provision (section 22) under the new scheme.

Clause 9: Amendment of s. 39—Review of the Board's decisions

Clause 9 substitutes the District Court for the Supreme Court in section 39 which provides for the right to have decisions of the Board reviewed.

Clause 10: Amendment of s. 40—Effect of workers compensation, etc., on pensions

Clause 10 makes an amendment to section 40 of the principal Act which reflects the provision in the *Superannuation Act 1988* (section 45(4)) dealing with the effect of the surrender of weekly workers compensation payments.

Clause 11: Amendment of s. 49—Confidentiality

Clause 11 amends section 49 of the principal Act to authorise the divulging of information if required by a State of Commonwealth Act.

Clause 12: Amendment of Schedule 1

Clause 12 inserts a transitional provision relating to the change in the way interest is determined under subsections (1b), (1c) and (1d) of sections 22 and 34.

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

STATUTES AMENDMENT (ADJUSTMENT OF SUPERANNUATION PENSIONS) BILL

The Hon. K.T. Griffin for the **Hon. R.I. LUCAS (Treasurer)** obtained leave to introduce a Bill for an Act to amend the Judges' Pensions Act 1971, the Parliamentary Superannuation Act 1974, the Police Superannuation Act 1990 and the Superannuation Act 1988. Read a first time.

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

That this Bill be now read a second time.

With the same qualification as previously, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill seeks to amend the pension adjustment provisions of the Judges' Pensions Act 1974, the Parliamentary Superannuation Act 1974, the Police Superannuation Act 1990, and the Superannuation Act 1988.

The pension adjustment provisions of these Acts provide that the payment of pensions shall be adjusted each year in October to reflect movement in the Consumer Price Index (all groups Adelaide) over the 12 months to the previous 30 June.

As members will be aware, there was a movement of—0.08 per cent in the Consumer Price Index (all groups for Adelaide) for the 12 month period to 30 June 1997. In accordance with existing legislation, pensioners receiving a pension under the Parliamentary Superannuation Act, the Police Superannuation Act, and the Superannuation Act, should have had their pensions reduced. An adjustment to pensions under the Judges' Pensions Act is not made unless the movement is at least one per cent.

The Government decided however to maintain pensions at existing levels.

The legislation contained in this bill seeks to ratify that action and to amend the relevant Acts to provide that where a negative movement in the Consumer Price Index occurs, the Treasurer may direct that no adjustment to pensions shall take place for the year commencing in the following October.

The bill also provides that where a pension increase occurs subsequent to a period in which pensions are maintained in this way, the increase shall be reduced to take into account the benefit to pensioners of receiving pensions at a higher rate during a period when they should have been reduced.

Explanation of Clauses

The provisions of the Bill are as follows:

Clause 1: Short title

Clause 1 is formal.

Clause 2: Commencement

Clause 2 provides for the commencement of the Bill from 1 October 1997. This will validate the non adjustment of pensions in respect of the 1996-97 financial year.

Clause 3: Interpretation

Clause 3 explains the meaning of the term 'principal Act' in the various Parts of the Bill.

Clause 4: Substitution of s. 14A

Clause 4 replaces section 14A of the *Judges' Pensions Act 1971*. The new provision follows the form of the adjustment provisions in the other superannuation Acts that provide for pensions and is much simpler than the provision that it replaces. Subsection (3) enables the Treasurer to direct that subsection (1) (the provision for adjustment) will not apply in order to avoid a reduction in pensions. Subsection (4) ensures that in a subsequent year, when adjustments are again to be made, they are related to the existing level of pension and not to the previous year's CPI level. Subsection (5) provides that subsequent increases in pensions will be reduced to compensate for benefits previously received by pensioners because of the non reduction in the level of pensions.

Clause 5: Amendment of s. 35—Adjustment of pensions

Clause 6: Amendment of s. 42—Adjustment of pensions

Clause 7: Amendment of s. 47—Adjustment of pensions

Clauses 5, 6 and 7 make similar amendments to the *Parliamentary Superannuation Act 1974*, the *Police Superannuation Act 1990* and the *Superannuation Act 1988* respectively.

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

EVIDENCE (USE OF AUDIO AND AUDIO VISUAL LINKS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Evidence Act 1929. Read a first time.

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

That this Bill be now read a second time.

With the same qualification as previously, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill inserts a new Part into the *Evidence Act 1929* to allow South Australian Courts to take evidence or submissions by audio visual or audio link from people interstate and to allow Courts interstate to take evidence or submissions using the same means from people within South Australia.

The Bill implements an agreement by the Standing Committee of Attorneys General to enact provisions enabling evidence to be taken and submissions received by video link or telephone within Australia. The Standing Committee developed a model bill and this Bill reflects the provisions of the model bill

The Bill gives the South Australian Courts the ability to take evidence and submissions by audio visual or audio link from people who are residing in a State or Territory with reciprocal legislation. Equally, the Bill enables the State and Territory Courts, which have reciprocal legislation, to receive evidence and submissions by audio visual or audio link from persons residing in South Australia. Under the Bill, evidence or submissions can be taken using the audio or audio visual links where it would be more convenient for evidence to be taken by this method or where the witness is unable to attend the hearing. However, if a party can satisfy the court that taking evidence or submissions by these means will be unfair to that party, the court must not make a direction.

A South Australian court taking evidence from a person in another State or Territory that has reciprocal legislation can administer an oath or affirmation in the participating state. A precondition to using the audio visual link is that the parties in either location are able to see and hear each other and the precondition for use of an audio link is that they are able to hear each other. Also, due to the reciprocal legislation, a nominated Court interstate will be able to enforce South Australian court orders as if they were orders of that court, interstate participants in the proceedings will have the same privileges, protection, and immunities as if they were appearing before the nominated court in that State or Territory, an officer of the nominated court will be able attend and assist in the proceedings and the rules relating to contempt of court will be applied.

In turn, the Bill permits courts to exercise their powers within South Australia, enforce the court orders as if they were orders of the South Australian Supreme Court, confer on participants the privileges, protection and immunity of participants to proceedings in the South Australian Supreme Court, permit the court to administer an oath or affirmation, allow an officer of a South Australian court to attend and assist in proceedings and provides for contempt of court.

The provisions of the Bill will operate in addition to Part 6B of the *Evidence Act 1929* which already makes some provisions for the obtaining of evidence from outside a court's territorial jurisdiction. The amendments are intended to be an alternative method of obtaining evidence and are not proposed to be a code.

The Standing Committee of Attorneys General is now developing legislation to provide for the taking of evidence by audio visual and audio link in other countries.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Insertion of new Part

It is proposed to insert the following new Part after Part 6B of the principal Act.

PART 6C—USE OF AUDIO AND AUDIO VISUAL LINKS

DIVISION 1—PRELIMINARY

59IA. Interpretation

New section 59IA contains definitions of words and phrases used in new Part 6C.

59IB. Transitional

New Part 6C extends to proceedings whether the proceedings were commenced, or the cause of action arose, before or after the commencement of new Part 6C.

59IC. Application of Part

New Part 6C is in addition to, and does not derogate from, other provisions of the principal Act or of any other law authorising the taking of evidence, or the conduct of proceedings, outside of South Australia.

DIVISION 2—USE OF INTERSTATE AUDIO OR AUDIO VISUAL LINK IN PROCEEDINGS BEFORE SOUTH AUSTRALIAN COURTS

59ID. Application of this Division

New Division 2 applies to any proceeding (including a criminal proceeding) before a South Australian court.

59IE. State courts may take evidence and submissions from outside State

A South Australian court may on application direct that evidence be taken or submissions made by audio, or audio visual, link from a participating State (*see new section 59IA for definition of participating State*).

The South Australian court may exercise in the participating State (in connection with taking evidence or receiving submissions by audio, or audio visual, link) any of its powers that the court is permitted, under the law of the participating State, to exercise in the participating State.

59IF. Expenses

A South Australian court may make orders in relation to expenses incurred in connection with taking evidence or making submissions by audio, or audio visual, link or for providing the link.

59IG. Counsel entitled to practise

A person entitled to practise as a legal practitioner in a participating State is entitled to practise as a barrister, solicitor or both—

- in relation to the examination-in-chief, cross-examination or re-examination of a witness in the participating State whose evidence is being given by audio, or audio visual, link in a proceeding before a South Australian court; and
- in relation to the making of submissions by audio, or audio visual, link from the participating State in a proceeding before a South Australian court.

DIVISION 3—USE OF INTERSTATE AUDIO OR AUDIO VISUAL LINK IN PROCEEDINGS IN PARTICIPATING STATES

59IH. Application of Division

New Division 3 applies to any proceeding (including a criminal proceeding) before a recognised court (*see new section 59IA for definition of recognised court*).

59II. Recognised courts may take evidence or receive submissions from persons in South Australia

A recognised court may, for the purposes of a proceeding before it, take evidence or receive submissions by audio, or audio visual, link from a person in South Australia.

59IJ. Powers of recognised courts

The recognised court may, for the purposes of any such proceeding, exercise in South Australia any of its powers, except its powers—

- to punish for contempt; and
- to enforce or execute its judgments or process.

The laws of the participating State (including rules of court) that apply to the proceeding in that State also apply, by force of new section 59IJ(2), to the practice and procedure of the recognised court in taking evidence or receiving submissions, by audio, or audio visual, link from a person in South Australia.

For the purposes of the recognised court exercising its powers, the place in South Australia where evidence is given or submissions are made is taken to be part of the court.

59IK. Orders made by recognised court

New section 59IK sets out orders that the recognised court may make in the course of such a proceeding. These are in addition to the powers of the court set out in new section 59IJ.

59IL. Enforcement of order

An order of a recognised court under new Division 3 must be complied with.

59IM. Privileges, protection and immunity of participants in proceedings in courts of participating States

The privileges, protections, immunitites, etc., extended to judges, legal practitioners and witnesses in relation to proceedings before a recognised court are the same as those extended to persons in relation to proceedings before the Supreme Court.

59IN. Recognised court may administer oath in South Australia

A recognised court may, for the purpose of obtaining in the proceeding by audio, or audio visual, link the testimony of a person in South Australia, administer an oath or affirmation in accordance with the practice and procedure of the recognised court. Evidence given by a person on oath or affirmation so administered is, for the purposes of the law of South Australia, testimony given in a judicial proceeding.

59IO. Assistance to recognised court

An officer of a South Australian court may, at the request of a recognised court provide the court with assistance of particular kinds.

59IP. Contempt of recognised courts

A person must not, in relation to proceedings in South Australia for the purpose of taking of evidence or the receiving of submissions by a recognised court by audio, or audio visual, link, engage in conduct that would, if the proceeding were before the Supreme Court, constitute an offence or a contempt of the Supreme Court. The penalty for a contravention of new section 59IP(1) is—

- if the conduct would have constituted an offence—the same penalty as if the offence had been committed in relation to proceedings before the Supreme Court; or
- if the conduct would have constituted a contempt—imprisonment for 3 months.

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

MOTOR VEHICLES (DISABLED PERSONS' PARKING PERMITS) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a Bill for an Act to amend the Motor Vehicles Act 1959. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

The Bill relates to disabled persons' parking permits. With the qualifications that were expressed by the Attorney in introducing earlier Bills, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The purpose of this Bill is to amend the *Motor Vehicles Act 1959* in relation to Disabled Persons' Parking Permits.

Part IIID of the *Motor Vehicles Act 1959* provides for the issuing of Disabled Persons' Parking Permits.

Currently only a person who has a permanent physical impairment that prevents them from using public transport, and also severely restricts their speed of movement, may apply to the Registrar of Motor Vehicles for a Disabled Person's Parking Permit.

The principal benefit of a permit is that the driver of any motor vehicle is entitled, while the vehicle is in the course of being used for the transportation of the holder of the permit, to park the vehicle in designated disabled parking spaces.

An extension of the present scheme has been sought by a number of parties for a number of years. The Government is pleased to put forward this amendment which extends the eligibility for parking permits to persons with temporary physical disabilities, and also to organisations which provide services to physically disabled persons.

The effect of the amendments will be that persons with a temporary physical disability which severely restricts their mobility and ability to use public transport, being disabilities that are not likely to improve within six months, and organisations which provide services to at least four persons eligible for an individual permit, will now be able to apply for a permit and thus be able to use designated disabled parking spaces.

Extending the eligibility criteria will make South Australia's system more consistent with other States. It is proposed to also amend the legislation to provide for recognition of interstate permits.

I would also take this opportunity to foreshadow that the terminology 'disabled persons' parking permit' will be considered as part of the comprehensive review of the Motor Vehicles Act scheduled to be completed by the end of this year. It is anticipated that the terminology may then be changed to 'disability parking permits' which is considered to be a generic term capable of covering both individuals and organisations.

In presenting the Bill, the Government acknowledges the extensive consultation with and support received from groups representing the interests of people with disabilities in South Australia.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of this amending Act by proclamation.

Clause 3: Amendment of s. 98R—Application for permit

This clause widens the category of applicants for permits to include not only individual disabled persons but also organisations that provide services to four or more disabled persons, being services that include transportation services. The definition of "disabled person" (see clause 9), is also widened to include a person with a temporary physical impairment. The other amendments in this clause are consequential.

Clause 4: Amendment of s. 98S—Duration and renewal of permits

This clause provides that a permit issued to a person with a temporary impairment will be granted or renewed for a period of not more than 12 months. Permits issued to organisations and persons with permanent disabilities will be issued for whole years, not exceeding 5, as determined by the Registrar.

Clause 5: Amendment of s. 98T—Parking permit entitlements

This clause extends the benefits of a disabled person's parking permit to organisations that hold such a permit, provided that the permit may only be used while a disabled person to whom the organisation provides services is being transported.

Clause 6: Amendment of s. 98U—Misuse of permit

Clause 7: Amendment of s. 98V—Cancellation of permit

The amendments contained in these two clauses are consequential.

Clause 8: Insertion of s. 98WA

This clause inserts a new section that gives interstate permit holders under corresponding laws the rights of a permit holder under this Part while they are in this State. The Minister will declare a law to be a corresponding law by notice in the *Gazette*.

Clause 9: Amendment of s. 98X—Interpretation

This clause provides two new definitions. The definition of 'disabled person' covers persons with either temporary or permanent physical impairments. The reference to the use of public transport is widened from the current requirement that a person must be unable to use public transport to a requirement that the person need only establish that their ability to use public transport is significantly impeded. 'Temporary physical impairment' is defined to mean an impairment that the Registrar believes will endure for more than six months but not be permanent.

Clause 10: Statute law revision amendments
This clause and the schedule convert penalties from divisions to monetary amounts and change various obsolete references.

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

MOTOR VEHICLES (WRECKED OR WRITTEN OFF VEHICLES) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a Bill for an Act to amend the Motor Vehicles Act 1959. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill seeks to introduce a number of initiatives to provide for more effective management of vehicle identifiers and is complementary to the *Road Traffic (Vehicle Identifiers) Amendment Bill 1998*.

South Australia, along with New South Wales and Victoria, are currently the only States that record details of wrecked and written off vehicles on a Wrecks Register. One of the main sources for obtaining false identifiers to re-identify a stolen motor vehicle is through the damaged car auctions. The most important aspect of a Wrecks Register is to ensure that vehicle identifiers are flagged as inactive on the vehicle registration database. Once the identifiers are flagged they are of little use to re-identify a stolen vehicle, as any vehicle bearing those numbers will undergo a very thorough identity inspection prior to acceptance of an application for registration.

Currently the Motor Vehicles Act and regulations require that the Registrar of Motor Vehicles be notified of all wrecked or written off vehicles. It is now proposed to enhance this requirement by requiring a motor vehicle that has been notified as wrecked or written off to have a "Written Off Vehicle Notice" attached, prior to it being offered for sale. This requirement will also apply to vehicles acquired for re-building and dismantling which are imported into South Australia from interstate or overseas. The presence of a "Written Off Vehicle Notice" will alert potential purchasers of the fact that the vehicle has been recorded as wrecked or written off and will require inspection before being put back into service.

The initiatives proposed for South Australia are consistent with discussions to date by the National Motor Vehicle Theft Task Force. The Task Force was established by the Leaders Forum, which consisted of the Premiers and Chief Ministers of all States and Territories. The Task Force first convened in September 1996 to develop a comprehensive action plan that combines national expertise on the issues of motor vehicle theft. The Task Force has representatives from all States and Territories with membership from Government registration authorities, motor vehicle manufacturers, vehicle and insurance industry representatives, and the police.

The South Australian Government's Vehicle Theft Reduction Committee provided comments on a "Call for Submissions" made by the National Motor Vehicle Theft Task Force in late 1996. The Committee recommended that strategies proposed for the management of vehicle identifiers in South Australia should form the basis of a best practice approach for implementation on a national level.

The Second Hand-Dealers and Pawnbrokers Act which was passed in December 1996, but has not yet been proclaimed, will complement the recommendations contained in this submission. The supporting regulations under that Act will require persons who deal in the purchase and sale of major vehicle components to:

- establish the identity of the seller of major vehicle components and maintain a record of purchases; and
- issue prescribed receipts for the sale of all major vehicle components.

Where a vehicle is presented for re-registration and it is recorded in the register of motor vehicles as wrecked or written off, it will be required to be inspected. If the repairs to the vehicle required the fitting of major vehicle components (such as a new or second-hand complete body, bonnet or boot-lid) the person presenting the vehicle for inspection will be required to provide satisfactory evidence in the form of original receipts, to verify that the components have been legitimately acquired. This approach is necessary to ensure that the parts have not been sourced from a stolen motor vehicle of the same make and type.

If the person is unable to provide satisfactory evidence, the application for re-registration may be refused. The power to refuse to register a motor vehicle in these circumstances is already available under section 24 of the Motor Vehicles Act.

The following amendments to the Motor Vehicles Act are proposed to provide a best practice approach to the management of vehicle identifiers.

The Bill extends the regulation-making power to enable the regulations to require that a "Written Off Vehicle Notice" be attached to a wrecked or written off motor vehicle prior to the vehicle being offered for sale, including wrecked or written off vehicles imported into South Australia from interstate or overseas. A "Written Off Vehicle Notice" will carry a warning regarding the misuse of vehicle identifiers. The regulations will provide that a "Written Off Vehicle Notice" can only be removed by an authorised inspector.

The Bill proposes that additional information about the area and severity of damage caused to a vehicle be notified to the Registrar. This information will assist inspectors to verify the authenticity of a re-built wrecked or written off vehicle prior to it being put back into service and assist in the detection of stolen vehicles. If notice is not given, or the notice given contains incorrect or incomplete information or the owner fails to verify information in a notice as required by the Registrar or provides incomplete evidence to verify the information in the notice, the Registrar will have power to cancel the registration of the vehicle.

The power to cancel is also to be extended to cases where an application to register a vehicle or transfer the registration of a vehicle is found to contain incomplete information or be supported by evidence that is incomplete.

The Bill provides the Registrar of Motor Vehicles with the power to examine any motor vehicle that has been modified, or fitted with a new engine. The absence of the power to examine provides thieves with the opportunity to disguise a stolen vehicle.

There will be a transitional period of three months from the date of commencement of the proposed amendments to enable persons to notify the Registrar of Motor Vehicles of wrecked or written off vehicles currently held in stock, which have not previously been notified as required under the current provisions of the Motor Vehicles Act.

I commend the Bill to Honourable Members.

Explanation of Clauses

Clause 1: Short title
This clause is formal.

Clause 2: Commencement
This clause provides for commencement of the measure on a day to be fixed by proclamation.

Clause 3: Amendment of s. 44—Duty to notify alterations or additions to vehicles
Section 44 of the principal Act requires the registered owner of a motor vehicle to which certain alterations or additions are made to give the Registrar notice of the making of the alterations or additions. Notice must be given in writing and the regulations prescribe the particulars that must disclosed in the notice.

This clause provides for notice to be given in a manner and form determined by the Minister and empowers the Registrar to require verification of information disclosed in a notice.

The clause increases the fine for failing to give notice from $200 to $750.

Clause 4: Amendment of s. 55A—Cancellation of registration where information in relation to the vehicle is incorrect or not provided
Section 55A of the principal Act empowers the Registrar to cancel the registration of a motor vehicle if satisfied that any information disclosed in the application for registration or transfer of registration was incorrect or if any evidence provided by the applicant in response to a requirement of the Registrar under the Act was incorrect.

The clause extends the power of the Registrar to cancel if information disclosed in an application to register or transfer registration was incomplete or if incomplete evidence is provided in response to a requirement of the Registrar under the Act. It also provides the Registrar with power to cancel the registration of a motor vehicle in relation to which the registered owner is required by section 44 to give notice of alterations or additions if the owner fails to give notice or to verify information in a notice, or provides incorrect or incomplete information or evidence to verify the information in a notice.

Clause 5: Amendment of s. 139—Inspection of motor vehicles
This clause empowers the Registrar, a member of the police force or a person authorised in writing by the Registrar to examine a motor vehicle in relation to which notice of an alteration or addition is given or required to be given to the Registrar by section 44.

The clause empowers an examination of a motor vehicle for any of the following purposes:

- to verify any information disclosed in a notice given under section 44 or evidence provided in response to a requirement of the Registrar under that section;
- to ascertain whether the vehicle complies with any Act or regulation that regulates the design, construction or maintenance of such a vehicle;
- to ascertain whether the vehicle would, if driven on a road, put the safety of persons using the road at risk;
- to ascertain whether the vehicle has been reported as stolen.

Clause 6: Amendment of s. 145—Regulations
This clause amends the regulation-making provisions to widen the scope of regulations that may be made in relation to wrecked or written off motor vehicles and to allow the regulations to confer discretionary powers.

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

ROAD TRAFFIC (VEHICLE IDENTIFIERS) 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 is complementary to the earlier Bill on wrecked and written off vehicles, and I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill seeks to introduce a number of initiatives to provide for more effective management of vehicle identifiers and is complementary to the *Motor Vehicles (Wrecked or Written Off Vehicles) Amendment Bill 1997*. There is evidence that vehicle identifiers, such as vehicle identification numbers (VINs) and vehicle identification plates (formerly known as compliance plates), are being removed from wrecked and written off vehicles and placed on stolen vehicles to provide these vehicles with a new identity. In addition, components are being removed from stolen vehicles and used as spare parts to repair other vehicles.

In 1995 over 126 000 vehicles were reported stolen in Australia at a cost to the community of approximately $654 million. Internationally, Australia has one of the worst car theft problems. In 1995 the rate of motor vehicle theft per 100 000 population was 703, whereas in the United States it was 560. Of the total vehicles stolen in South Australia in 1996, approximately 11 per cent were not recovered.

In South Australia alone, the cost is estimated to be between $50 million and $70 million annually. Although the number of vehicles stolen in South Australia has declined in recent years, the percentage of stolen vehicles not recovered continues to be a concern. The fate of these vehicles is not known, but it is believed that:

- some vehicles are re-identified and then sold;
- some are dismantled for spare parts; and
- others are removed from South Australia to another State or Territory, or shipped out of Australia.

In early 1995 the Government's Vehicle Theft Reduction Committee focussed its attention on the handling and disposal of vehicle identifiers and the identification of re-built and repaired motor vehicles. The disposal of wrecks through the insurance and auction industry was also considered.

In May 1995 the Hon. Attorney-General established a Vehicle Identifiers Task Force. The role of the Task Force was to examine and identify areas within the vehicle industry where improved management of vehicle identifiers could further reduce vehicle theft.

A Working Party was established in May 1996 to implement the recommendations made by the Task Force. To ensure that a wide range of views were obtained, extensive consultation was held with industry representatives from the Motor Trade Association, the Royal Automobile Association, the Insurance Council of Australia, the South Australia Police and the Attorney-General's Department.

A booklet entitled 'Guidelines for the Management of Vehicle Identifiers' was prepared. Copies of the booklet were distributed to industry and relevant Government agencies for comment. The feedback received indicates strong Government and industry support for the guidelines and the introduction of the proposed legislative amendments. It is expected that the guidelines will assist industry to understand its obligations and comply with the existing and proposed new legislation.

To minimise the illegal practice of vehicle identifiers being used to re-identify stolen motor vehicles, it is proposed that the vehicle identification number of a wrecked or written off vehicle be flagged as inactive. A system known as the "National Exchange of Vehicle and Driver Information System" (NEVDIS) is to be introduced to provide access to national data on vehicle identification numbers flagged as inactive for wrecked or written off vehicles.

The proposed recommendations for the management of vehicle identifiers will place South Australia at the forefront of Australian States in theft reduction counter-measures.

The following amendments to the Road Traffic Act are proposed to provide a best practice approach to the management of vehicle identifiers.

The Bill makes it an offence for a person to affix to a vehicle an engine number, chassis number or VIN other than the number originally allotted to that vehicle by the manufacturer, or to attach to a vehicle a vehicle identification plate other than the plate approved or authorised for placement on that vehicle under the Commonwealth *Motor Vehicles Standards Act 1989*.

In the case of a vehicle that has been re-built using new or second-hand major vehicle components, such that it no longer complies with the manufacturer's specifications, it will be an offence for a person to place on the vehicle a VIN or vehicle identification plate other than a number allotted to that vehicle by an inspector or approved authority under the law of another State or a plate approved or authorised for placement on that vehicle by an inspector or such an authority.

The Bill provides that if the manufacturer's engine number has been removed from an engine either illegally or during reconditioning, or a new replacement engine has been supplied by the manufacturer without an engine number, it is an offence for a person to place on the engine an engine number other than a number issued by an inspector or authority approved by the Minister.

It will also be an offence for a person to manufacture, sell or offer for sale a vehicle identification plate without the approval of the Minister or have such a plate in his or her possession without reasonable excuse.

The Bill consolidates and strengthens the existing statutory provisions relating to vehicle identifiers by incorporating in the Road Traffic Act offences currently in the Road Traffic Regulations and substantially increasing the penalties for these offences. These provisions include the offences of manufacturing, selling or offering for sale a vehicle that does not bear a vehicle identification plate and the offence of driving a vehicle that does not bear a vehicle identification plate.

The Bill prescribes a range of penalties for breaches of the proposed provisions. It is essential that meaningful penalties be established that are appropriate for vehicle theft and related illegal activities.

Explanation of Clauses

Clause 1: Short title
This clause is formal.

Clause 2: Commencement
This clause provides for commencement on a day to be fixed by proclamation.

Clause 3: Insertion of Part 3A

PART 3A
VEHICLE IDENTIFICATION

110A. Interpretation
This proposed section is an interpretative provision.

110B. Motor vehicle or trailer must bear vehicle identification plate
This proposed section requires a motor vehicle or trailer to bear an identification plate (unless the Australian Design Rules

applicable to the vehicle or trailer at the time of its manufacturer did not require it to bear such a plate).

110C. Offences

Proposed subsection (1) makes it an offence for a person to manufacture a motor vehicle or trailer that does not bear a vehicle identification plate for that motor vehicle or trailer. The maximum penalty is a $2 500 fine.

Proposed subsection (2) makes it an offence for a person to sell or offer for sale for use on roads a motor vehicle or trailer that does not bear a vehicle identification plate for that motor vehicle or trailer. The maximum penalty is a $2 500 fine if the offence is committed in the course of trade or business. In the case of an offence not committed in the course of trade or business the maximum penalty is a $1 250 fine and the offence is expiable on payment of a fee of $160.

Proposed subsection (3) provides that a person must not, except as permitted by the regulations, drive a motor vehicle or trailer that does not bear a vehicle identification plate for that motor vehicle or trailer. The maximum penalty is a $1 250 fine and the offence is expiable on payment of a fee of $160.

Proposed subsection (4) provides that subsections (2) and (3) do not apply in relation to a motor vehicle or trailer if the Australian Design Rules applicable to the vehicle or trailer at the time of its manufacturer did not require it to bear such a plate.

Proposed subsection (5) provides that a person must not place on a motor vehicle or trailer a plate that could be taken to be a vehicle identification plate approved or authorised for placement on that motor vehicle or trailer by—

- the Commonwealth Minister under the Commonwealth Act; or
- an inspector under the regulations; or
- an approved authority under a law of another State or Territory,

knowing that it is not such a vehicle identification plate. The maximum penalty is a $10 000 fine or imprisonment for 2 years.

Proposed subsection (6) provides that a person must not place on a motor vehicle or trailer a number that could be taken to be a VIN allotted to that motor vehicle or trailer by—

- the manufacturer of that motor vehicle or trailer; or
- an inspector under the regulations; or
- an approved authority under a law of another State or Territory,

knowing that it is not such a VIN. The maximum penalty is a $10 000 fine or imprisonment for 2 years.

Proposed subsection (7) empowers a member of the police force or inspector to remove from a motor vehicle or trailer a plate or number that he or she reasonably suspects has been placed on the motor vehicle or trailer in contravention of subsection (5) or (6).

Proposed subsection (8) makes it an offence for a person to remove, alter, deface or obliterate a vehicle identification plate or VIN lawfully placed on a motor vehicle or trailer. The maximum penalty is a $5 000 fine or imprisonment for 12 months.

Proposed subsection (9) makes it an offence for a person to manufacturer, sell or offer for sale a vehicle identification plate without the approval of the Minister. The maximum penalty is a $5 000 fine or imprisonment for 12 months.

Proposed subsection (10) makes it an offence for a person to be in possession of a vehicle identification plate without reasonable excuse. The maximum penalty is a $2 500 fine or imprisonment for 6 months.

Proposed subsection (11) makes it an offence for a person to—

- place on the engine block of a motor vehicle a number other than the engine number allotted to the engine of that motor vehicle by the manufacturer, an inspector under the regulations or an approved authority under a law of another State or Territory;
- without reasonable excuse, remove, alter, deface or obliterate an engine number lawfully placed on the engine block of a motor vehicle.

The maximum penalty is a $5 000 fine or imprisonment for 12 months.

Proposed subsection (12) makes it an offence for a person to—

- place on the chassis of a motor vehicle or trailer a number other than the chassis number allotted to the chassis of that motor vehicle or trailer by the manufacturer;
- without reasonable excuse, remove, alter, deface or obliterate a chassis number lawfully placed on the chassis of a motor vehicle or trailer.

The maximum penalty is a $5 000 fine or imprisonment for 12 months.

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

PUBLIC SECTOR MANAGEMENT (INCOMPATIBLE PUBLIC OFFICES) AMENDMENT BILL

In Committee.

(Continued from 17 February. Page 284.)

Clause 3.

The Hon. K.T. GRIFFIN: We had a fairly good discussion about the issues raised by this amendment when we were last considering the clause. I said, at the request of the Hon. Mr Gilfillan in particular, that I would be prepared to move that progress be reported and the Committee have leave to sit again so that further consideration could be given to the complex issues which are raised by the amendment, as well as the complex issues sought to be addressed by the Bill itself.

I did obtain some further advice in relation to the matter, and I think it is important to have it on the record, so I will read it into *Hansard*. I have already informally made the information available to the Hon. Mr Holloway and the Hon. Mr Gilfillan on the basis that this is not one of those issues which is Party political but, rather, one on which we are seeking to get a good outcome.

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: I appreciate the recognition from the Hon. Mr Gilfillan and hope that that will continue in a number of other areas of endeavour. I have received the following advice through the Crown Solicitor:

The proposed amendments would affect subsection (2) of the proposed section 70A. Subsection (2) empowers the Governor to give directions in relation to an actual or potential conflict of duty and duty between offices held concurrently and provides that if the office holder concerned complies with those directions he or she is excused from any breach that would otherwise have occurred. The proposed amendment would be to limit the effect of proposed subsection (2) by the operation of proposed subsection (2a) which would provide:

> However, a public sector employee appointed as a member of a statutory body may not be given directions by the Governor, a Minister or any other person as to the exercise of a discretion or power as a member of the body.

To the extent that the new subsection provides that a public sector employee board member may not be given directions by the Governor as to exercise of a discretion or power as a member of the body, the provision would largely defeat the purpose of the proposed subsection (2). That subsection is designed to provide protection for a public sector board member from the operation of the doctrine of incompatible public offices where there is an actual or potential conflict. It is based on the view that the authority in question will be an agency or instrumentality of the Crown and the public sector employee will be employed by the Crown and accordingly the conflict may be resolved in such manner as the Crown, represented by the Governor in this instance, directs. For example, it may be appropriate for the Governor to direct the officer concerned to refrain from participating in the board's deliberations on a particular issue. This may be a reasonable means of overcoming what would otherwise be an intractable situation.

However, a direction not to participate in a deliberation of the body is a direction as to the exercise of a discretion or power as a member of the body—it is a discretion not to exercise a discretion or a power. It would thus be prevented by the proposed new

subsection. It is difficult to see what directions the Governor could give to resolve a conflict that would not impact in some way on the exercise of a discretion or power as a member of the body.

It is true that the directions could also impact on the exercise of the person's duties as a public servant, and any direction with that effect would not be prevented by the proposed subjection (2a). However, not all conflicts will be capable of resolution by directions as to how the person should act in his or her public sector employment, and in my view potential conflicts would be more likely to be resolved by such steps as the one suggested above, that is, to direct the public sector board member to refrain from participating in deliberations on a particular issue in the board context.

Another issue which is thrown up by the proposed subsection (2a) and which highlights the difficulties that it would create is that it draws a distinction between the exercise of a discretion or power as a member of the body and the exercise of a discretion or power in the capacity of a public sector employee. It may not be possible to draw a line between these two capacities. For example, suppose the board of a statutory body resolves to conceal some piece of material information from the relevant Minister. Suppose that a departmental employee is a member of the board. Clearly, the employee has a duty in his or her capacity as a public servant to inform the Minister of the information which the board would withhold. However, to do so may be a breach of the person's duty to the statutory body. In that situation there is a conflict of duty and duty.

If the effect of the proposed subsection (2a) is that the Governor may only give a direction to the person in his or her capacity as a public servant, the Governor may perhaps direct the person to disclose the information to the Minister. However, how can one be certain that such a direction would not be a direction as to the exercise of a discretion or power of the person in his or her capacity as a member of the body? One does not cease to be a member of the body on walking out of the boardroom and entering the offices of the department.

The discretion to maintain a board secret remains with the person at all times. Thus the provision may prevent a direction to disclose the information purportedly given to the person solely in his or her capacity a public servant. By erecting a distinction between the capacities of membership of the body and public servant the amendment would perpetuate the very conflict which subsection (2) is designed to resolve.

I note that the subsection also provides that a public sector employee may not be directed by a Minister or any other person as to the exercise of a discretion or power as a member of the body. It is interesting that such a provision has been inserted, given that subsection (2) only refers to directions of the Governor. In my view the provision is unnecessary because a Minister or any other person could not lawfully direct a member of a statutory body to vote in a particular way as a member of the body because the member has a fiduciary obligation to the body to act *bone fide* in its best interests which would require him or her to exercise a personal discretion in a matter and not act a mere cipher of someone else (see *Bennetts v Board of Fire Commissioners*).

In this respect the provision is unnecessary and fails to recognise the fiduciary relationship between board members and statutory bodies imposed by the common law. Indeed, the existence of a provision to that effect on the statute book may serve to impliedly modify the common law in that regard, and that would be an undesirable outcome.

That advice has been provided to me through the Crown Solicitor. It is not normal to incorporate the advice of the Crown Solicitor or to circulate it, but on this occasion I have taken the view that, partly, the Crown Solicitor is acting as a policy adviser as much as a legal adviser, although one can see clearly from the nature of what I have just read into *Hansard* that it is in the nature of legal advice.

It is important to have that information available to members so that they can gauge some sense of the complexity of the issue and, hopefully, appreciate that the Government proposal is the better way to deal with this without amendment and that the objective is to protect the public servant—for no other reason but to protect the public servant in the event of a breach of the common law provisions relating to incompatibility of public offices.

I do not think I can take that issue any further. It is a complex issue, as I have acknowledged, but one where we are seeking to satisfy the issue so far as it has been raised by the Auditor-General and also to ensure that within the public sector there is a mechanism by which we can provide protection in appropriate circumstances for public servants.

The Hon. P. HOLLOWAY: I thank the Attorney for providing us with that information. As he said, it is a highly complex issue. The views of the Crown Solicitor on that matter are appreciated. Whilst I concede that perhaps there is some difficulty, I am not entirely convinced by the argument. In one case, the Attorney talked about the question of board secrecy. It seems to me that if a board had directed a public servant not to reveal information the Minister should certainly know that. I cannot see any reason why the public servant could not tell the Minister that he was instructed by the board to withhold information. In that situation, I cannot see why the Minister could not direct the board as a whole to provide him with it. I should have thought that if—

The Hon. K.T. Griffin interjecting:

The Hon. P. HOLLOWAY: Yes, that is true. I should have thought that the practical situation was that, if a board was withholding information from a Minister, the Minister ought to know that the board was doing so and that the Minister would change the membership of the board very quickly. I understand why a board might want to prevent information from becoming public, but I find it hard to see why a board would want to withhold information from a Minister. There have been some examples, one of which I think involved the TAB. I think the Minister soon solved that problem by directing the board.

The Hon. K.T. Griffin interjecting:

The Hon. P. HOLLOWAY: Well, I think the Minister finally got the information. I should have thought that a better way to deal with that was to have the power to instruct boards. I want to make quite clear that in moving this amendment I believe that Ministers should have the power to get information from boards and to instruct boards if necessary. Provided that the whole process is public and overt, I do not see any problem with that. I think that would be a far more satisfactory situation than to have two tiers of board members so that a public servant who was a board member could be given directions privately by a Minister to provide information whilst other members of the board might not be aware of that situation.

I concede that my amendment may present some problems as outlined by the Crown Solicitor, but I think that another way around it would be to make public any direction that is given by the Governor under Part 2 of the Minister's Bill. If boards were clear about where public servants stood in terms of their duties and responsibilities, I do not think there would be any problem. Everyone would know where they stood, and the other board members would know what the role of the public servant was and what they were to do, and so on. I should have thought that was another way of handling the issue, and I would be interested to hear from the Attorney his view in relation to making public such directions from the Government. Is there any reason why this could not be done?

The Hon. K.T. GRIFFIN: With respect to the honourable member, I think he is missing the point. This is not about giving directions to a board. Subsection (1) of proposed section 70A relates to the circumstances in which a person who holds an office is appointed to another public office and the extent to which the first office is vacated by virtue of the appointment to the second office. We are providing that that

not occur because the appointment is not invalid as the potential exists or has existed for the duties of the officers to be in conflict or because the duties of either one or more of the officers require by implication the person's full-time attention.

There are many positions in the public sector where public servants who are appointed to a particular position—it may be a statutory office—are also appointed to another office. It may not necessarily be to a board, but they may be held concurrently. There is a very real issue about whether, if there is a potential for conflict, the second appointment means that the person appointed thereto has vacated the first office. That is the issue that the Auditor-General was raising and seeking to have us address.

If we do not deal with this issue in this way, it maintains the question whether an office is actually validly filled. When we were working through this issue, we felt that there might be some circumstances in which we wanted to ensure that the whole issue was put beyond doubt by enabling the Governor to give directions in relation to an actual or potential conflict. It is dealing with the issue of the conflict of duty and duty between the offices held concurrently. That is the issue.

It may be that if one of the offices is a membership of a statutory board a direction may be given by the Governor that 'you shall not vote at that board on these issues which might be actively under consideration within the department.' There is no way that that sort of direction can be made public. It may be that it is an issue that is truly confidential. It could affect an individual whose affairs might be addressed by the board and might at the same time be under consideration within the officer's department.

I understand the point that the Hon. Paul Holloway makes; I just do not think it is practical or realistic. I do not think you can make instructions public. You must rely on the fact that it is not a ministerial direction; it is a direction by the whole Cabinet, in effect, through the Governor and it is directed towards excusing breaches. It is there to protect rather than to harm. I understand the sense of suspicion about how it might be used, but all I can say is that there is nothing sinister in the provision for the Governor to give directions in certain circumstances, because it is all designed to facilitate the work of Government to ensure that there is no invalidity in a public office and that, where there is a conflict or potential conflict, the officer is excused from the breach in accordance with the Governor's directions.

I do not see any other way around it. The amendment is not acceptable to the Government, but I hope that the Committee will understand that it is because of those reasons which I have addressed that we believe that the Bill as it is without amendment will provide the best and most flexible approach to an issue which has been identified by the Auditor-General which is a real and live issue within the public sector.

The Hon. T. CROTHERS: I hear what the Minister for Justice says and I do not think the Holloway amendment in its totality addresses matters that are liable to flow from people having membership of more than one statutory authority. For example, you could have a Government officer having membership of more than one statutory authority who may want to go the way of one board and its decisions simply because it is a matter of funding from the Government, and that pure and simple, irrespective of what the Attorney says, is a conflict of interest. I do not think that the Attorney and his Bill go far enough either because there are a number of anomalous openings there that even I, untrained in the law, can see and I think to his credit the Attorney has admitted that. I can even see more than that. The private sector has addressed those matters in respect of where there is more than one membership of a board concerning conflicts of interest. As you, Mr Chairman, would be aware having been a council member, as has the Hon. Mr Dawkins (although I may be mistaken), in the case of a person who is an architect, a real estate person or property owner on a council, if there is a conflict of interest in respect of their full-time job in terms of making decisions, they withdraw because of the conflict of interest principle.

I understand full well what the Attorney has said and I understand why the Government has decided to put the Bill before us but, at the end of the day, the Bill falls short.

The Hon. K.T. Griffin interjecting:

The Hon. T. CROTHERS: Yes, it does and you have admitted that. It falls short in respect of some of the matters that could arise from a person being on two boards with two competing interests or being on more than two boards. Government members are fond of saying that we should follow the private sector and there are a whole series of Acts that should apply to board members and members of companies relative to the processes of decision making. It is equally true that our amendment, as my colleague the Hon. Paul Holloway says, is not total in the way it answers some of the shortcomings. However, it is an honest endeavour on our part, just as the Bill is an honest endeavour on the Government's part, to try to give some redress to the points that the Auditor-General quite rightly made. It may well be, because there is no great hurry in this matter, that in order to get as foolproof a system as it is possible to get the whole issue ought to be taken back to the drawing board, re-examined and—

The Hon. K.T. Griffin interjecting:

The Hon. T. CROTHERS: It has not been in front of this Council. It has been on the Notice Paper but not in front of the Council. It may be that we did not have the benefit of your erudite rebuttal in respect of our amendment and maybe that has caused us to think again, just as we would hope that some of the comments made by the Hon. Paul Holloway in his contribution would also open up the vista of the Government's eyes and remove the veil of myopia that sometimes covers the eyes of all Ministers in Government, including some of my own colleagues when we were in Government. For those reasons only, I support the amendment. I understand the problem but your Bill has problems, too, that are not addressed either. At this stage I support the amendment.

The Hon. K.T. GRIFFIN: With respect, this has nothing to do with the private sector: it is about public offices and it deals with the common law which has developed around incompatible public offices. Whilst the honourable member is correct in saying that we have not covered every possible exigency or circumstance, it is impossible to do so and what we are trying—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: You may do, but it is impossible. I can tell you from being in Government that there are so many variables that you cannot hope to draft a piece of legislation that will deal with every case. The moment you do that you make work for the lawyers and, with all due respect to my professional colleagues, I am not in the business of doing that.

The Hon. IAN GILFILLAN: I cannot say that I am particularly overwhelmed by the argument for or against the

amendment. I can see the justification for the initiative for the amendment. I repeat what I said yesterday: I have not researched the Auditor-General's contribution which triggered off this initiative—I assume it triggered it off. Therefore, I tend to assess it, as I read the Bill, and also how I read verbatim the actual opinion given by Crown Law. I would have thought that where there was substantial risk of conflict of interest, that public servant should not accept the appointment.

The Hon. T.G. Roberts: It may develop.

The Hon. IAN GILFILLAN: In which case people can retire or remove themselves from such position. In this respect it seems to me that the conscience of the individual is going to be assumed by the Government. Although the Attorney goes to great pains to say that that is not one single Minister, it may be that the Government or Cabinet is swayed by the argument of one particular Minister. I feel there are lots of very effective advocates in the Cabinet who may carry a point of view. At the top of page 2 of the Crown Law piece, it states:

> However, not all conflicts will be capable of resolution by directions as to how the person should act in his or her public sector employment and in my view potential conflicts would be more likely to be resolved by such steps as the one suggested above, i.e., to direct the public sector board member to refrain from participating in deliberations on a particular issue in the board context.

That assumes that the Government is aware well enough in advance of any issue that is likely to put this person in a risk of conflict of interest to deliberate, come to an opinion and provide that opinion to the person. One assumes that it will be a mandate and that that person has to obey that direction, otherwise they lose the legal protection that they have from common law by the effect of this Bill if it is passed.

I am not at ease with it at all and, although some examples are given here, I am certainly not convinced that it is going to be a desirable measure to introduce. I suspect—and I hope I am not being unfair—that the Hon. Paul Holloway in the course of this debate has realised that his proposed amendment is no panacea and would not really correct the faults or misgivings that he believes could apply to the Bill. The dilemma for us is to indicate whether we support the Bill at all. I think I indicated in the second reading debate that we would support the second reading. That still reserves for us the right to oppose it at the third reading. That is the first dilemma. The second decision is whether we support the amendment.

I think it is fair to indicate to the Council that I am not persuaded that the amendment substantially improves the Bill to the extent that we would support it, in light of the opinion that the Attorney has given that the Government will oppose it and wants the measure to be given a try as it is. I have confidence in the Attorney's undertakings, and I think this measure ought to be revisited within a reasonably short time, if not with the particular details (because he has persuaded me that some areas will have to be kept confidential), but I would like to think that there will be some measure of how and when it is applied and what complaints, if any, come back from people who have received such directions, so that as a Parliament we can reassess how this measure works—if, as I am assuming, the Government proceeds with this; it seems to be resolved to do so—after a 12 month period. I would like the Attorney to comment on whether he feels that would be reasonable and practicable.

The Hon. K.T. GRIFFIN: I do not agree with the Hon. Mr Gilfillan that the simple solution of the public servant resigning from the board would solve all the problems and related issues. It might solve one problem but it may also create another. It may be that a public servant—someone from a Public Service department for which the Minister is responsible—should be on a board which is also responsible to the Minister. If you say that the public servant should resign if a conflict appears, then you are saying that no-one in that agency is able to go on the board, notwithstanding the value of having a public servant from that department on that board.

The Hon. Ian Gilfillan: That is the extreme situation that the person takes himself or herself away from the board for a particular area of decision making. That is a personal decision.

The Hon. K.T. GRIFFIN: That does not necessarily solve the problem at common law; that is the problem, because that is just a personal decision. The conflict still exists, because that person is still a member of the board. That is the difficulty. I indicated in the second reading report that the Government proposes to instigate a targeted review. Someone asked me what 'targeted' was and I indicated that it was really looking at offices where there is the potential for incompatibility with Government boards and committees to ensure that chief executives and statutory office holders are not holding incompatible offices and to include guidance and principles on the issue in relevant Government handbooks and publications and in material produced by the Commissioner for Public Employment on ethical behaviour.

I would expect that, if enacted, this Bill would be administered by the Commissioner for Public Employment. It is obvious that there will be a review of offices. I will endeavour to ensure that a review occurs after about 12 months, give or take a few months. We will refer that to the Commissioner for Public Employment and it may be that he either makes some reference to it in his annual report, or a ministerial statement might indicate the extent to which the issues addressed in the Bill have actually become live issues.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: I was going to say also that the Auditor-General has raised this issue. We have responded as a Government and I would be surprised if the Auditor-General did not have this issue on his own agenda for assessment and, if necessary, report.

The Hon. P. HOLLOWAY: I indicate that the Opposition has no wish to divide on this matter, given the problems with it. However, I indicate that we will certainly keep the Attorney to his word in terms of the review of this matter and as an Opposition we will certainly be keeping an eye on its operation over the next few years.

Amendment negatived; clause passed.

Title passed.

Bill read a third time and passed.

HIGHWAYS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 February. Page 275.)

The Hon. CAROLINE SCHAEFER: I will speak very briefly on this Bill which, as has been stated previously, has been put forward largely as a result of a visit that the Minister took to the inland of our State last year. I commend the Minister for taking that trip into the outback and visiting the road gangs who work in those isolated conditions. Largely, the questions I intended to ask have been asked by the Hon.

Carolyn Pickles, and I believe the Minister has answers to those questions. I had some earlier concerns about access to landholders who live in those regions if these roads are cut by law, and I thoroughly agree that those more isolated roads become very cut up particularly by heavy vehicles after rain, and the cost and difficulty of road gangs getting there to fix them are quite extensive.

If an irresponsible driver takes a semitrailer up those unsealed roads after rain it is sometimes many months before the roads become accessible again. I was concerned for station owners who live in the area and what would be the legal situation for those people accessing roads as required, and I believe the Minister has answers to those questions. Prior to Christmas I circulated the Bill widely to people whom I know in the region, both property owners and people who have trucking firms out of Roxby Downs, Olympic Dam, Birdsville, etc. I have heard no unfavourable comments on this Bill, so I support it and commend the Minister for her action and for listening to people in that area.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank the Hons Carolyn Pickles and Caroline Schaefer for their responses to the Bill. I am summing up without a contribution from the Hon. Sandra Kanck, because she advised me yesterday that she was not planning to make a contribution to this Bill but that she supported the measure and wished it a speedy passage.

The Hon. Carolyn Pickles raised nine questions in all and I have the following advice. The first question related to an Outback road and what would be the situation if that road was the only access road to a private property. It is true that the access road is generally the principal access to a property. There are often alternatives of a more minor nature, but I advise that the owner would not be exempt in the circumstances outlined in the Bill. The purpose of the Bill is to prevent damage to the roads no matter who the driver of the vehicle may be. Property owners in general appreciate that it is their livelihood that depends on the road access and they will be diligent in not using those roads in those conditions because of the wear and tear and long-term damage that will eventuate from the roads being used when wet.

What I learnt when I was in that area is that, for instance with the Birdsville Track, those roads dry out quite quickly because of weather and wind conditions. The local owners know that and respect it. It is they who have been urging this change to the law because it is others—'foreigners', visitors or those passing through—who do not have the same respect for the roads and the lasting impact of use of those roads in wet or damp weather. Because it is such an essential part of the environment for local pastoralists and others, they have advised me that they are happy with the provisions in the Bill and can accommodate the proposed changes.

Question No. 2 related to the main offenders with regard to damage to unsealed roads. It is the entire spectrum of road vehicles from motor bikes and cars to heavy transport. Four-wheel drives are a huge offender and some people, often from the city, get behind the wheel of a four-wheel drive with a bull bar and think they can do what they like wherever they want no matter the weather. The whole fact of driving such a vehicle makes them think that they are heroes and cowboys and a whole range of things. The damage they cause is extreme. Through Transport SA and four-wheel drive associations, more work is being done to educate four-wheel drive owners of the responsibilities of driving such vehicles on Outback roads in various conditions.

Question No. 3 related to the cost of regrading a damaged road. I highlighted in my second reading speech that it is $160 per kilometre, which rises to about $500 per kilometre if the road is heavily rutted. Those costs are average only, and I apologise for not making that clear in the second reading speech. In the case of damage to a long length of road the cost per kilometre would be less than the figures I have quoted, but in the case of short lengths the cost per kilometre can be much higher because of the costs associated with mobilising equipment over the often vast distances involved.

Question No. 4 related to the nature of the barriers that would be erected to close a road. I am advised that the design of the barriers has not yet been completed, but work is being undertaken with discussions with local people and to gain experience from Queensland in particular where the Government, the police, the pastoralists and others have come down with a heavy hand in terms of vehicles driving on roads when they are wet. The penalties in Queensland are not only heavy but the barriers are effective. The police also are keen to have an active say and we will ensure that they do. Not only must they be effective in not letting the vehicles go through but they must be easy to handle, erect and dismantle.

Question No. 5 related to how people who wish to use the area are alerted to an emergency closure. Transport SA utilises an extensive network throughout the Far North to advise road users of a closure. This includes not only the press and the radio but also a network where police, national works, tourism operators, transport operators, mining operators, the RAA, pastoralists and others are notified of conditions by facsimile. Transport SA also operates a Website on the Internet to advise of conditions and a free call number is available for people who wish to inquire over the telephone. In addition, Transport SA will be erecting large road status signs at strategic locations throughout the Far North which will advise of road conditions in the vicinity. That is not the case at the moment. It will be part of the proclamation of this piece of legislation.

Question No. 6 related to the delegation of powers and I advise that the proposed legislation merely gives the Commissioner the power to delegate. No decision has been made to whom those delegations will be made until consultation occurs with groups such as the police, National Parks and local government. The question of costs will be addressed during this consultation. The police have been in regular contact with Transport SA officers expressing frustration at their inability to effectively manage road closures under the present legislation and at the local level and they are keen to see the measure proposed in this Bill implemented in terms of the delegations and they would wish to have such a delegated power.

Question No. 7 relates to the mechanism for policing the activity. Transport SA will be relying not only on the police network through the Far North but also on the sense of ownership that pastoralists and other operators, miners and the like in the Far North have for what I would call 'their roads'. Most pastoralists, if not all miners, in the Far North have both telephone and facsimile facilities. Locals can quickly contact either the police or Transport SA.

Question No. 8 related to the right of appeal. This is the same as under any other law, namely, through the courts system. In the case of an emergency the court has a discretion not to proceed to a conviction as it has with any other charge.

Question No. 9 related to whether there are any other roads to which this Bill is aimed. It is designed to be effective

on all public roads in the unincorporated areas of the State, which means all areas north and west of incorporated or council boundary areas. I know, having had consultations to which the Hon. Caroline Schaefer referred, that this measure will be of particular use to heavy tourism areas such as the Strzelecki and Birdsville Tracks. The road gangs, the pastoralists, the pub owners, the miners, the people of Marree and around Lake Eyre will welcome this measure and be pleased that the Legislative Council, which represents the whole State, has supported this measure in their interests. They often feel out of sight, out of mind and will welcome the unanimous support of the Parliament for this Bill.

Bill read a second time.

In Committee.

Clause 1.

The Hon. CAROLYN PICKLES: The Opposition thanks the Minister for her prompt response to the nine questions. We are very satisfied with the response and will continue to support the Bill.

Clause passed.

Remaining clauses (2 to 10) and title passed.

Bill read a third time and passed.

LIQUOR LICENSING (LICENCE FEES) AMENDMENT BILL

In Committee.

Clause 1.

The Hon. K.T. GRIFFIN: I thought that this was an appropriate point to respond to the matters raised by the Hon. Angus Redford. I did undertake to endeavour to obtain some information from the Liquor and Gaming Commissioner about the way in which he will exercise the discretionary power to exempt which is contained in proposed new section 97(2) of the Act. The new section provides:

> If the licensing authority is satisfied on the application of the licensee that, in view of the limited scope of a business conducted under a licence, an exemption from the requirements of subsection (1)(a) may be granted without compromising the responsible service and consumption principles, the licensing authority may approve alternative arrangements for the supervision and management of the business.

The Liquor and Gaming Commissioner has provided a list of factors that he considers relevant to assessing whether or not an exemption may be granted under this section. The list is not exhaustive or exclusive as the Commissioner will assess each application on its merits.

As I indicated yesterday, the working group met last week and it was agreed that the Commissioner would endeavour to develop clearer guidelines which would provide comfort to the industry, particularly to the wine industry, about the way in which the exemption will be exercised. Some licensees may have circumstances unique to their operation which justify the granting of an exemption and should not be precluded from putting forward such circumstances by the compilation of an exhaustive list of factors to be taken into account in exercising the discretion.

The Commissioner has indicated that in assessing whether in view of the limited scope of the business conducted under the licence an exemption may be granted without compromising the responsible service and consumption principles of the Act. He will take into account such factors as the nature and scope of the operation, including the volume and frequency of trade with the general public; the type of trade, for example, by way of a free sample or complementary liquor; and whether or not sales are primarily trade sales.

The Commissioner does not intend simply to link the scope of the business to turnover because it is not a good indicator of activity and would introduce the need for record keeping by licensees, which is not currently required under the new Act; the nature of the premises, for example, family bed and breakfast; whether the business is a small family business where the supply of liquor is incidental to the main business activity; whether liquor can be consumed on the premises; the number of approved persons already working in the licensed business, for example, directors and managers; whether the exemption is to cover casual staff for other than normal business operations; the location of the premises including its proximity to areas where there has been a history of liquor related problems; whether or not entertainment is provided; the hours of operation including whether or not extended trading authorisation is in place; the level of reliance on voluntary rather than paid staff; the history of the premises, for example complaints from residents; and the level of public attendance at the licensed premises.

The Commissioner has indicated that he is happy to discuss with industry members whether there are other factors that they consider are relevant to the exercise of the discretion with a view to publishing a set of guidelines so that they are readily available to licensees. Again, however, no set of guidelines could be exhaustive as the Commissioner will consider each case on its merits. The basic test is whether the scope of the business conducted under the licence is such that an exemption may be granted without compromising the responsible service and consumption principles which form the cornerstone of the new Act.

It is important to stress that—that responsible service and consumption principles underpin this legislation. It was one of the main reasons why we were able to get a consensus across the whole of the liquor industry as well as the broader community because we were placing so much more emphasis upon responsible service and consumption principles.

I would suggest that the wider community would have no bar of extended trading in a number of areas which is available now under the new legislation if they believed that responsible service and consumption principles and harm minimisation were not key factors which drove the liquor licensing regime. It is important to recognise that all members of the working group which met last week supported responsible service and consumption principles and harm minimisation strategies.

It is just on this one issue of who is a responsible person that the Wine and Brandy Association had some reservation, and only in respect of the question of the police and credit check. That is the issue. The issue is not about having to get persons approved—because they felt that the exemption provision would address all those sorts of issues—but rather the focus is upon the police and credit check. That is an issue which is not easy to resolve but it is an issue on which I have indicated we will continue to work to see if we can satisfy the concerns of that part of the liquor industry.

The Hon. A.J. REDFORD: I am grateful for the Attorney-General's response not only in terms of its content but also in terms of the speed of his response. I anticipate that there may be, at least in the initial stages, substantial numbers of people who will apply for exemptions for various reasons. An example that has come to my attention is the substantial number of smaller wineries in the Coonawarra. I hope that the Commissioner will give serious consideration to ensuring that we have a simple procedure seeking exemptions and one which does not necessarily mean that we have to bring in

high-powered lawyers. I acknowledge that the Attorney-General is shaking his head and I am grateful for that. I think it is important that we do have a simple and streamlined process, but I am grateful to the Attorney-General and the Liquor Licensing Commissioner for his response.

The Hon. K.T. GRIFFIN: The real test in the next six months or so will be how the exemption process is operated. The Liquor and Gaming Commissioner indicated to the working group that he would certainly be flexible. He did not want unduly to place an emphasis upon formality but, of course, there will have to be a written application which may be faxed in or transmitted electronically. It is not intended that there will be an involvement of members of the legal profession in this process. I suppose in one or two instances it may be that the licensee may choose to involve a member of the legal profession—and that is their choice— but the process is not one which is directed towards being complicated and deserving of that sort of attention.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. CARMEL ZOLLO: Will the Minister confirm the commitment that I have received from his department that, should this amendment Bill be passed, the Deputy Liquor and Gaming Commissioner intends drafting a separate form for applicants who wish to sit on the committee of management of a club holding a limited club licence?

The Hon. K.T. GRIFFIN: Yes.

The Hon. CARMEL ZOLLO: I am sure the good people of Coober Pedy will be grateful.

Clause passed.

Clause 5 passed.

Clause 6.

The Hon. CARMEL ZOLLO: I move:

Page 3, after line 4—Insert new subsection as follows:

(6) The licensee must keep a record, in a form approved by the Commissioner—

(a) showing who is, for the purposes of subsection (1)(a), the responsible person for the supervision and management of the business conducted under the licence from day to day and from time to time; or

(b) if alternative arrangements for the supervision and management of the business have been approved under subsection (2)—containing any information about the supervision and management of the business required under the approved arrangements.

Maximum penalty: $1 250.

At the outset I make it perfectly clear that the Opposition amendment gives the ability to exempt those clubs which trade only with their members and invited guests, that is, the envisaged category called 'limited club licence', and any other premises at the licensing authority's discretion. As I understand it, in relation to small family wineries with cellar door sales and country hotels run by families, the licensing authority has discretion in all things. I understand that the Government amendment reflects this discretion as well.

Labor sees this amendment as a further responsible safeguard for employees and the public. It would have the effect of making provision to record the name of one person in authority ultimately to be accountable for taking responsibility and who can be the nominated person to whom other staff can go for reference at any given time. We believe that a mandatory record of duty is a means of tracing the responsible person on duty should an incident occur.

We have been given examples of large work places where five or six responsible people can be on duty without anyone being nominated as the responsible person in the sense of this Government amendment Bill. Someone is wearing the badge for the day, but five or six eligible responsible people can be on the premises. The person wearing the badge may well be in an office upstairs. Who is to remember who was wearing the badge that day if an incident needs tracing the following week, several weeks or months later?

It has been suggested that all one has to do to find the responsible person is check a pay slip. However, pay slips do not have such enlightened information, and I am told that the highest paid employee does not always equate to being the responsible person. I understand that since the introduction of the new Act many gaming machine managers who have already completed the personal information declaration and young people who are record free are also being made responsible people. The union that services this industry sees this as a problem in middle to larger hotels because of the responsibility that the position carries, especially in regard to the sale of liquor to minors and to intoxicated people.

As I mentioned in my second reading speech, we were all surprised at a recent legal case interstate where a patron successfully sued an establishment for serving him liquor when, in his opinion, he was clearly intoxicated. It may not now be sufficient to have as a defence that the defendant believed that the person whom he or she served was not intoxicated. Should a relatively inexperienced young person be taking such responsibility in some cases? Who really should be accountable?

It has been mentioned to me that a mandatory record of duty is of no use unless it is policed. I do not see this as a problem, as I understand that premises are required to submit an assessment return every financial year, and a record of duty could be included in that. It will definitely not cost millions of a dollars for a business to enter a name on a piece of paper—a computer entry perhaps. An officer of the Liquor and Gaming Commissioner also has the power to undertake spot checks on premises. Surely it is easier when officers come to do a spot check in large premises to refer to a duty roster rather than go wandering through premises looking for the person wearing the badge.

Another issue could be that in a large establishment it might be difficult ever to determine who was responsible for the sale of liquor to any particular client well after the event. I am told that it is not unusual should there be a problem with an intoxication accident for the police to have great difficulty in determining who was the responsible person. Indeed, I am told that it could even be difficult on the same evening. Whilst I am well past the disco age and I lack such experience, I am reliably informed that in some establishments with several bars you may never be served twice by the same person. As previously mentioned, pay slips do not help because there is no reason to show such detail. Clearly, by inserting the amendment, licensees would need to be more responsible both to the public and to employees. The industry is already a heavily regulated industry, and rightly so. I believe that it will not involve too onerous a task to keep such a record. The issue of remuneration for responsible people is also important, but it needs to be pursued through more appropriate avenues at this time.

In his contribution yesterday, the Hon. Angus Redford said that the Government Bill should be about promoting responsible use by patrons and responsible service by industry. I believe that our amendment further ensures the delivery of such service. I thank the Hon. Nick Xenophon for his indication of support in this place yesterday, and I draw

particular attention to his comments on responsibility, as follows:

> It seems to me that the underlying theme of responsibility will be strengthened by having accountability inherent in the proposed amendment. Without having a degree of accountability the underlying theme of responsibility cannot be properly fulfilled.

The Opposition believes that with a record of duty the responsible person is traceable at any time. Therefore, they are accountable and are more likely to be responsible. The staff will have a better awareness of the responsible person. Whilst there can be more than one eligible responsible person on the premises, only the one on roster will take responsibility.

I do not believe that compliance with this requirement is any different from any other section of the Act, and I did not hear anything yesterday from the Government which made a case for its being either difficult or costly to comply with a record of duty. I suspect that if the name of the responsible person is recorded it is more than likely that they will be in the same area where alcohol is served, especially in larger establishments.

I do not accept the Attorney-General's argument that the Opposition's amendment will make more work for small clubs. Our amendment allows for exemptions for such clubs and, as I understand it, the licensing authority is able to exercise flexibility when exemptions are applied for. It is our belief that a mandatory record of duty will help to ensure that the responsible person will be the most senior person on the premises, whether it be the licensee, the manager or some other designated senior person of authority. That is probably another way of saying that it is the best way of getting the most accountable person. I hasten to add, of course, that the Opposition recognises the need to foster younger staff in such positions from time to time until they are ready for such promotion. To my mind, anything that helps to make commercially oriented premises safer for patrons, especially younger ones, is well worth the cost of perhaps 52 pieces of paper and the time it takes to write and sign one's own name.

The Attorney-General indicated in his second reading reply that the responsible person—that is, the person who is wearing the badge—is responsible for the total supervision of the site. In that case, I say to the Minister that the Opposition's amendment will record who is wearing the badge as required under section 97(5) of his Government's Bill. As such the Opposition believes that its amendment is a sensible one.

The Hon. K.T. GRIFFIN: I did not say that the responsible person was responsible for the whole site. What I did say was that the responsible person is responsible for the conduct of the business which is the subject of the licence for the purposes of the obligations which are imposed by the licence. One must remember that the question of pay slips is not necessarily a matter for the responsible person; in fact, it is most likely that it is not. Under the Bill and under the present Act, the responsible person is the licensee or a director of the licensee, a person approved by the licensing authority to be a manager of the business conducted under the licence, or some other person approved by the licensing authority; or there are some alternative circumstances and provisions in accordance with which the business may be conducted. So the responsible person is a person who has responsibility for those obligations which are imposed upon the business by the Liquor Licensing Act.

With respect to the Hon. Carmel Zollo, I do not agree that it is a simple matter of filling out a name on a piece of paper. If the name is not filled out or if it is filled out incorrectly, there then follows some sanctions. What the Government is anxious to do is remove some of the administrative burdens upon licensees—to move out of regulating some areas. Obviously, if businesses conducting a business under a licence want to have a day-by-day, hour-by-hour record of who is the responsible person—and some big operators may want that—that is a matter for them. The Liquor and Gaming Commissioner should not be interested to see whether or not a certain time sheet has been kept up to date.

The fact is that when the police officer goes onto the premises the person who is wearing the badge as the responsible person will be the one to whom inquiries by the police officer or the liquor inspector will be directed, and there will not be two of them: it must be supervised by a responsible person. Within the industry that has been well accepted right across the board: the concept of a responsible person wearing a badge after approval by the Liquor and Gaming Commissioner.

The Hon. Ian Gilfillan: Does the badge have a photograph on it?

The Hon. K.T. GRIFFIN: I'm not sure. Certainly crowd controllers do. I will take that question on notice. I may have an answer before the end of the debate.

The other point is that it is not a matter of who is the most senior person; it is the person who has been approved by the Liquor and Gaming Commissioner other than the licensee, the manager or a director of the licensee, all of whom go through the checking and approval process, anyway, and who are also responsible persons. If there are others, it is a matter of choice for the licensee. If the licensee wants to appoint a 22 year old to be the responsible person and, if the Liquor and Gaming Commissioner is satisfied after appropriate checks to approve that person, why should not the licensee have the right to make that decision? Why should a 45 or 50 year old be the person who might be regarded as the more senior of the two? It is a matter for the licensee to make that judgment and to obtain the appropriate approvals.

In terms of training, Adelaide has the best hotel and hospitality industry training scheme in Australia. People from around the world come here to participate in the Regency Park courses. Those young people—and mostly they are young people—would far outshine many of the people who are currently in the industry. They would know more about the operation of the Liquor Licensing Act than many others who have been in the industry for a much longer period of time and who have not been through the training processes.

So, with respect to the Hon. Carmel Zollo I do not think it is a matter for either the Government, the Liquor and Gaming Commissioner or this Parliament to say, 'You should not have someone like this; you should have someone like that.' All we are trying to do under the Act and now in this Bill is minimise the bureaucracy, provide some flexibility to deal with the very real issues that have been raised and to let licensees get on with running their businesses subject to responsible service, consumption principles and the minimisation of harm policies.

The Hon. NICK XENOPHON: I support the amendment. I made brief comments on this matter yesterday but the Hon. Mr Gilfillan did not have the benefit of hearing or reading what I said and for his benefit I will briefly summarise what I said in support of the amendment. The amendment is all about responsibility. I accept what the Attorney is saying in terms of responsible service of alcohol and I accept that the industry thinks it is doing the right thing with respect

to the current regime. However, this amendment enhances the principle of responsibility. The reality is that there are many hotels that simply do not take a responsible attitude to the problems that occur.

It is difficult to find someone and simply having a badge with six or seven employees on business premises simply does not address the issue. The act of putting pen to paper and having a record of who is responsible will make the hotel accountable in the context of this amendment and I do not see it as being onerous. Yesterday, I said that the reality of many hotels, particularly those hotels with gaming machines, is that there is already a significant amount of paper work to fill out. The amendment will make it easier for many employees. I made the point yesterday that the information I have from people who work in the industry is that it is often difficult to pinpoint who is responsible in the context of a busy hotel and this simple and straightforward step will enhance the accountability provisions that underpin the whole concept of responsibility in the Act.

The Hon. K.T. GRIFFIN: I want to take this opportunity quickly to say that the honourable member misunderstands the issue. Employees do not have to be approved. Anyone can work in the industry but there have to be persons, the licensee and, if it is a company, the directors and there also has to be a manager who are approved. Then, if there are others whom the licensee wishes to have approved as responsible persons—not as employees but as a person in whose care they can leave the licensed premises while they are out of the way, on leave, on business or whatever—then such a responsible person is the one person on the premises clearly identified. You can have 50 employees with none of them being approved, but you do have to have one responsible person on the premises who has been approved by the Liquor and Gaming Commissioner who is clearly identified.

I dispute very vigorously the proposition that this will not be an impost. I can tell you that if this is passed, and it may be, it will cause an uproar right across the industry. We have already debated this in our working group last week and the clear message from the whole of the industry was, 'Let us get on with our businesses.'

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: No, it was not. This does not affect the employees. If the honourable member is up tight about employees, it is the responsibility exercised—

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: The honourable member does not know what he is talking about. He has no idea. If he looks at the Act, the responsible person is a person specifically designated and approved to take responsibility for the conduct of the business in accordance with the Liquor Licensing Act. It does not relate to industrial relations or the responsibilities of any person in relation to employees. The Act clearly provides that it is an offence for a licensee or an employee to serve someone who is intoxicated or to serve a minor. Each one of the persons who undertakes that practice is therefore liable under the Act. That is not a matter for which the responsible person has the day-to-day management control. It is a matter of training across the whole of that business and it is the responsibility of the licensee.

The Hon. A.J. REDFORD: I want to make a quick series of points. First, as to the insertion of proposed section 97, there is a need to understand that there is a balance, particularly in relation to proposed section 97(2), between the onus of responsibility to the public and the responsibility in terms of the service of alcohol and balancing that with what is appropriate in terms of an enterprise and what is appropriate in terms of what that enterprise should or should not do in achieving the overall objective of the responsible sale of alcohol. To impose an onerous requirement—it is onerous and I will explain why in a minute—under the amendment will simply encourage people to seek exemptions pursuant to proposed section 97(2). I can imagine businesses will go to the Commissioner saying, 'I want an exemption specifically so I do not have to do this.' I do not believe we should be proposing legislation on that basis.

I draw members' attention to one of the big problems we have about the Liquor Licensing Act when we debated it this time last year in respect of clubs, both small and large. It was reported by the Commissioner, noted by Mr Anderson and agreed to by everyone in this place that, with the sign in and sign out book, it was not being complied with. No-one was doing it simply because it was an onerous task. People are going in and out of the premises all the time and they were not keeping them up. The real risk we run when we over-regulate like this is that we make ordinary innocent people going about their day-to-day lives the subject of some arbitrary prosecution because they happen to be in the wrong place at the wrong time. I do not think we should legislate like that.

Secondly, I do not believe the Opposition understands that this does provide an extra piece of paper work on the part of people who, on the whole, are responsible. We are imposing a regulatory regime based upon some anecdotal evidence provided by the Opposition and to a lesser extent by the Independent member, the Hon. Mr Xenophon, over a period of administration that commenced only in October or November last year. We are talking about a three month period and we are saying there is a major problem, from what I can understand, based on one or two complaints about not being able to find a person with a badge. That person might have been in the toilet, out the back or attending to another responsibility associated with their duties under the Act.

We should not be imposing what I would see as a significant regulatory task potentially on every single licensee in this State based upon some anecdotal evidence that arises in a short three month period, particularly to impose it on every single licensee, unless they get an exemption, in this State. That would be stupid. If there is some evidence that this problem is endemic throughout this industry, by all means let us look at it, but that has not been put to this Parliament. I urge members to reconsider this amendment. I really cannot see how the case for imposing a regulatory regime has been made out, given that a similar regime (signing in visitors to clubs) was a failure for many years. Because people do not comply with it, we potentially make ordinary, honest people—

An honourable member interjecting:

The Hon. A.J. REDFORD: No; the licensee must keep a record showing who is the responsible person from day to day and from time to time. So, if one person pops out to pick up the day's stores at the brewery they have to fill out that form. They might be gone for only 10 minutes; it is silly.

The Hon. IAN GILFILLAN: It is rather pleasant to see shades of Sumnerism in this place; it must go with the mantle of Attorney-General. Some of us used to hear Chris Sumner wax eloquent and emotional when he really wanted to carry a point, but unfortunately the Attorney-General is not realising this similarity. To call on an argument that there will be uproar in the industry and blood in the streets because of the imposition of this measure is very much the sort of

emotive punch power that those who remember the Hon. Chris Sumner with admiration would realise was part of his technique. I hope the Attorney does not take it on, because it gets a bit tedious after a while. We intend to oppose the amendment; it appears to us to serve no useful purpose. Much more to the purpose would be that whoever is the responsible person is clearly identified. I think there should be identification on the badge so there can be no shuffling of the badge from one person to another just to make it look as if a responsible person is in the place. I consider that the argument that it is onerous is minor. Also, I do not believe it would achieve any purpose. If any establishment does not want to comply with this requirement I do not believe that writing names at certain times would serve any effective purpose (and there is no guarantee of the authenticity of that list in any case) and we therefore oppose the amendment.

The Hon. K.T. GRIFFIN: I appreciate that indication. It escapes me whether the photograph is on the badge. I have a recollection that it is, only from something that I recollect was raised at the meeting. I would not want to honourable member to rely absolutely—

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: I am a non-drinker. It might surprise you that I have brought in a very good piece of legislation affecting the liquor industry, but it is my public duty to do that. I do not want the Hon. Mr Gilfillan to rely absolutely on what I have just indicated. Even though the Bill will pass I will undertake to get the details of what is on the badge and circulate that to members.

The Hon. T.G. ROBERTS: I thank the Attorney-General for doing that. I have a reported vested interest. My brother is in the industry and I have a son who works part-time while attending a university course. And I attend some pubs in some places and have a drink at the front bar. Students who work in the industry part-time in nightclubs and other premises have reported to me that they have been asked to provide identification in the absence of managers. For much of the time when the students work those hours, the managers are not there. Managers might open up and leave the students in charge and in what would be regarded as control and a responsible position until the business warms up. Some nightclubs sometimes do not start to get busy until 2 or 3 o'clock in the morning. I am reliably told that they have been asked to supply badges or identification with photographs at their own expense to indicate that they are in control or temporary control of those premises.

I am not sure whether an indicated slip of paper will change the responsibility if something occurs on those premises that indicates that they are liable, even though they may not be aware of it. But, if they are to supply identification with a photograph and if the manager indicates to them that they are the responsible person for that period of time and that senior people are not available or not on those premises, that would certainly indicate to them that they have it. I guess that, using the Hon. Nick Xenophon's argument, if it has been indicated to people that they are in a position of responsibility, those people in that position will have an extra role to play. They would then be able to ask the appropriate questions of their seniors or the managers or owners who leave them in that position,'What are my responsibilities and what am I actually responsible for?'

It is something that has started to develop since the previous Bill was introduced and enacted. It might pay to contact members of the industry and talk to them about that identification. I would also be interested in the legal responsibility that these people are placed in, given that they may not be aware of it. With due respect, the Attorney is talking about a responsible industry using responsible training methods, and I have no problem with that where people are aware of their responsibilities through training and being anointed by a responsible manager or where it is a family-run business with family members or a sporting club that is not very busy; but premises where there is an absence of responsible management is what we are legislating for. We do not have to legislate for good behaviour. In this instance we are talking about trying to get a solution for those circumstances that are created through absent management and bad behaviour. We do not want to penalise those people in the industry—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: If you are absent you are not responsible. People in the industry will tell you that those premises that do not provide the best service in terms of responsible management of liquor sales are generally those that do not have a responsible management structure.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Those sorts of things will be indicated to the Liquor Licensing Commissioner, who will then be able to make exemptions for those businesses that are run in that manner, but most problems occur between 10 p.m. and those extended hours. And that is when bad managers tend to use young trainees. They should not be training young people during those periods, but they tend to be their busiest times and that is when they take on casual staff, who tend to be young people. We must ensure that we do not penalise good management by passing a law that becomes onerous, but we must make sure that we protect young people in positions where they may become vulnerable and be made responsible for the actions of the customers' bad behaviour through bad management and bad service within those premises.

The Hon. CARMEL ZOLLO: I am disappointed that the Government and Democrats on this occasion see this amendment as onerous. Short of repeating myself for the next 10 minutes, which I do not see any point in doing, we see our amendment as being responsible and accountable. It takes nothing away from administration, as the Hon. Nick Xenophon commented before; it simply enhances it. It simply pinpointed who was the responsible person. I thank everybody for their comments, but I am disappointed that our viewpoint did not get the support that we think it deserves.

The Committee divided on the amendment:

AYES (8)

Cameron, T. G.	Crothers, T.
Pickles, C. A.	Roberts, R. R.
Roberts, T. G.	Weatherill, G.
Xenophon, N.	Zollo, C.(teller)

NOES (11)

Davis, L. H.	Dawkins, J. S. L.
Elliott, M. J.	Gilfillan, I.
Griffin, K. T.(teller)	Kanck, S. M.
Laidlaw, D. V.	Lawson, R. D.
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	

Majority of 3 for the Noes.

Amendment thus negatived; clause passed.

Clause 7 and title passed.

Bill read a third time and passed.

LEGAL PRACTITIONERS (QUALIFICATIONS) AMENDMENT BILL

In Committee.

Clauses 1 to 3 passed.

Clause 4.

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

Page 4, line 25—Insert 'is not to be counted for the purposes of determining whether a quorum is present and' after 'law student'.

This amendment provides that the law student member of the council is not to be counted for the purpose of determining the quorum of the Legal Practitioners Education and Admission Council. The law student does not have a vote on that council, so it is not appropriate that he or she should count for the purpose of the quorum.

The Hon. CAROLYN PICKLES: We support the amendment.

The Hon. IAN GILFILLAN: We intend to oppose the amendment. As I said in my second reading contribution, we believe the law student should have a vote and it is with that intention in mind that I will vote against the amendment. Although I do not have an amendment on file, I repeat that it is important to reassert that we believe that there could and should have been two law student representatives, one from both the Flinders and Adelaide universities, and in both those cases our preferred position would be that they have voting positions on the council. We oppose the amendment.

Amendment carried; clause as amended passed.

Clause 5.

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

Page 7, line 5—Insert 'the' after 'if'.

This amendment corrects a typographical error.

Amendment carried; clause as amended passed.

Clause 6.

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

Page 7, after line 30—Insert new subclauses as follows:

(3a) LPEAC may delegate any of its functions or powers under this section to the Board of Examiners.

(3b) A delegation under this section—

(a) must be in writing; and

(b) may be conditional or unconditional; and

(c) is revocable at will; and

(d) does not prevent LPEAC from acting in any matter.

This amendment gives the Legal Practitioners Education and Admission Council power to delegate its functions and powers under new section 17A to the Board of Examiners. Under section 17A the council may make rules about the education, training and experience of practitioners or practitioners of a particular class. The council, for example, may want to delegate to the Board of Examiners consideration of further education or training a foreign practitioner is required to undertake before being admitted as a legal practitioner in South Australia.

The Hon. CAROLYN PICKLES: The Opposition supports the amendment.

Amendment carried.

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

Page 7—

Line 31—Insert 'or the Board of Examiners' after 'LPEAC'.

Line 35—Insert 'or the Board of Examiners' after 'LPEAC'.

These two amendments are related. The first amendment gives a person the right of appeal against a decision of the Board of Examiners and is necessary as a result of the previous amendment. The Board of Examiners now has the power to make decisions which affect individuals and it is appropriate that a person who is not satisfied with the Board of Examiners' decision should have a right to appeal that decision. The second amendment is consequential on that amendment.

The Hon. CAROLYN PICKLES: We support the amendment.

Amendments carried; clause as amended passed.

Clauses 7 and 8 passed.

Clause 9.

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

Page 8, line 8—Insert 'in accordance with the regulations' after 'Supreme Court'.

This amendment allows the qualifications of trust account auditors to be prescribed by regulation. The Law Society is concerned to improve the qualifications of auditors. This can best be done by leaving the qualifications to be prescribed by regulation. Auditors of small firms do not need the qualifications of auditors of large firms. Just because a person is a member of a certain accountancy organisation does not mean that that person has auditing experience. Factors such as these will need to be considered when the regulations are being formulated.

The Hon. CAROLYN PICKLES: The Opposition supports the amendment.

Amendment carried; clause as amended passed.

New clause 9A.

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

Page 8, after line 9—Insert new clause as follows:

Amendment of s.38—Regulations

9A. Section 38 of the principal Act is amended by inserting after paragraph (a) the following paragraph:

(aa) prescribing qualifications for approved auditors generally or for specified classes of approved auditors; and.

This amendment provides that regulations may be made prescribing the qualifications of auditors. It is consequential on the previous amendment.

The Hon. CAROLYN PICKLES: We support the new clause.

New clause inserted.

Clauses 10 and 11 passed.

Clause 12.

The PRESIDENT: I point out to the Committee that clause 12, being a money clause, is in erased type. Standing Order 298 provides that no questions shall be put in Committee upon any such clause. The message transmitting the Bill to the House of Assembly is required to indicate that this clause is deemed necessary to the Bill.

Remaining clauses (13 and 14), schedule and title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (CONSUMER AFFAIRS) BILL

In Committee.

Clauses 1 to 38 passed.

Schedule.

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

Schedule—Leave out the Schedule and insert new Schedule as follows:

SCHEDULE
Further Amendments

Provision Amended	How Amended
1. Building Work Contractors Act 1995	
Section 25(1)*(b)*	Strike out "$8 000" and substitute "$20 000".
Section 48	Strike out the penalty provision and substitute: Maximum penalty: *(a)* If the person made the statement knowing that it was false or misleading—$10 000. *(b)* In any other case—$2 500.
Section 58(1)	Strike out this subsection and substitute: (1) Proceedings for an offence against this Act must be commenced— *(a)* in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1921*; *(b)* in any other case—within 2 years of the date on which the offence is alleged to have been committed or, with the authorisation of the Minister, at a later time within 5 years of that date.
2. Consumer Transaction Act 1972	
Section 14 (previously section 45(2))	Strike out this section.
3. Conveyancers Act 1994	
Section 5 Section 10 Section 11 Section 12 Section 15(1) Section 15(2) Section 15(3) Section 18(4) Section 18(5) Section 23(1) Section 23(2) Section 23(3) Section 23(4) Section 24(3) Section 26(2) Section 26(3) Section 27 Section 28(1) Section 28(2) Section 30	In each case, strike out the penalty provision and substitute: Maximum penalty: $20 000.
Section 49(1)*(b)*	Strike out "$8 000" and substitute "$20 000".
Section 50(1) Section 50(2)	In each case, strike out the penalty provision and substitute: Maximum penalty: $35 000 or imprisonment for 6 months.
Section 56	Strike out the penalty provision and substitute: Maximum penalty: *(a)* If the person made the statement knowing that it was false or misleading—$10 000. *(b)* In any other case—$2 500.

Section 63(1)	Strike out this subsection and substitute: (1) Proceedings for an offence against this Act must be commenced— *(a)* in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1921*; *(b)* in any other case—within 2 years of the date on which the offence is alleged to have been committed or, with the authorisation of the Minister, at a later time within 5 years of that date.
Section 67(2)*(e)*	Strike out "a division 7 fine" and substitute "$2 500".
Section 67(2)*(f)*	Strike out " a division 7 fee" and substitute "$210".
4. Land Agents Act 1994	
Section 6(1)	Strike out the penalty provision and substitute: Maximum penalty: $20 000.
Section 10	Strike out the penalty provision and substitute: Maximum penalty: $20 000.
Section 11(1)	Strike out the penalty provision and substitute: Maximum penalty: $20 000.
Section 11(2)	Strike out the penalty provision and substitute: Maximum penalty: $5 000.
Section 13(1) Section 13(2) Section 13(3) Section 16(4) Section 16(5) Section 21(1) Section 21(2) Section 21(3) Section 21(4) Section 22(3) Section 24(2) Section 24(3) Section 25 Section 26(1) Section 26(2) Section 28	In each case, strike out the penalty provision and substitute: Maximum penalty: $20 000.
Section 47(1)*(b)*	Strike out "$8 000" and substitute "$20 000".
Section 48(1) Section 48(2)	In each case, strike out the penalty provision and substitute: Maximum penalty: $35 000 or imprisonment for 6 months.
Section 54	Strike out the penalty provision and substitute: Maximum penalty: *(a)* If the person made the statement knowing that it was false or misleading—$10 000. *(b)* In any other case—$2 500.
Section 61(1)	Strike out this subsection and substitute: (1) Proceedings for an offence against this Act must be commenced— *(a)* in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1921*; *(b)* in any other case—within 2 years of the date on which the offence is alleged to have been committed or, with the authorisation of the Minister, at a later time within 5 years of that date.
Section 65(2)*(f)*	Strike out "a division 7 fine" and substitute "$2 500".
Section 65(2)*(g)*	Strike out " a division 7 fee" and substitute "$210".
5. Land Valuers Act 1994	
Section 5	Strike out the penalty provision and substitute: Maximum penalty: $20 000.

Section 6	Strike out the penalty provision and substitute: Maximum penalty: $20 000.
Section 11(1)*(b)*	Strike out "$8 000" and substitute "$20 000".
Section 12(1)	Strike out the penalty provision and substitute: Maximum penalty: $35 000 or imprisonment for 6 months.
Section 12(2)	Strike out the penalty provision and substitute: Maximum penalty: $35 000 or imprisonment for 6 months.
Section 24(2)*(c)*	Strike out " a division 7 fine" and substitute "$2 500".

6. Plumbers, Gas Fitters and Electricians Act 1995

Section 6(1) Section 12	In each case, strike out the penalty provision and substitute: Maximum penalty: $20 000.
Section 13	Strike out the penalty provision and substitute: Maximum penalty: $2 500.
Section 24(1)*(b)*	Strike out "$8 000" and substitute "$20 000".
Section 25	Strike out the penalty provision and substitute: Maximum penalty: $35 000 or imprisonment for 6 months.
Section 32	Strike out the penalty provision and substitute: Maximum penalty: *(a)* If the person made the statement knowing that it was false or misleading—$10 000. *(b)* In any other case—$2 500.
Section 33	Strike out the penalty provision and the expiation fee and substitute: Maximum penalty: $2 500. Expiation fee: $80.
Section 40(1)	Strike out this subsection and substitute: (1) Proceedings for an offence against this Act must be commenced— *(a)* in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1921*; *(b)* in any other case—within 2 years of the date on which the offence is alleged to have been committed or, with the authorisation of the Minister, at a later time within 5 years of that date.
Section 44(2)*(d)*	Strike out "a division 7 fine" and substitute "$2 500".
Section 44(2)*(e)*	Strike out " a division 7 fee" and substitute "$210".

7. Retirement Villages Act 1987

Section 4(4)	Strike out the penalty provision and substitute: Maximum penalty: $10 000.
Section 6(6)	Strike out the penalty provision and substitute: Maximum penalty: $35 000.
Section 7(8) Section 8(3)	In each case, strike out the penalty provision and substitute: Maximum penalty: $10 000.
Section 8(5)	Strike out the penalty provision and substitute: Maximum penalty: $35 000.
Section 10(11)	Strike out the penalty provision and substitute: Maximum penalty: $20 000.
Section 10AA(3)	Strike out the penalty provision and substitute: Maximum penalty: $10 000.
Section 12(1) Section 12(2) Section 13(7) Section 13(8) Section 13(10) Section 14(10)	In each case, strike out the penalty provision and substitute: Maximum penalty: $2 500.
Section 15(2)	Strike out the penalty provision and substitute: Maximum penalty: $35 000.

Section 16(4)	Strike out the penalty provision and substitute: Maximum penalty: $10 000.
Section 18(1)	Strike out the penalty provision and substitute: Maximum penalty: $35 000.
Section 21A(3)	Strike out "a division 7 fine" and insert "a fine not exceeding $2 500".
Section 22(1)	Strike out this subsection.
Section 23(2)*(c)*	Strike out "a division 7 fine" and substitute "$2 500".
Schedule 3, clause 5(2)	Strike out the penalty provision and substitute: Maximum penalty: $1 250.
Schedule 3, clause 6(6)	Strike out the penalty provision and substitute: Maximum penalty: $750.
8. Second-hand Vehicle Dealers Act 1995	
Section 7(1)	Strike out the penalty provision and substitute: Maximum penalty: $20 000.
Section 13	Strike out the penalty provision and substitute: Maximum penalty: $20 000.
Section 14(1) Section 14(5) Section 16(1)	In each case, strike out the penalty provision and the expiation fee and substitute: Maximum penalty: $2 500. Expiation fee: $105.
Section 16(5) Section 16(6)	In each case, strike out the penalty provision and substitute: Maximum penalty: $2 500.
Section 16(7)	Strike out the penalty provision and substitute: Maximum penalty: $1 250.
Section 17(3)	Strike out the penalty provision and the expiation fee and substitute: Maximum penalty: $2 500. Expiation fee: $105.
Section 17(4) Section 17(5) Section 17(6) Section 18 Section 20(1) Section 20(3)	In each case, strike out the penalty provision and substitute: Maximum penalty: $2 500.
Section 20(5)	Strike out the penalty provision and the expiation fee and substitute: Maximum penalty: $2 500. Expiation fee: $105.
Section 20(6)	Strike out the penalty provision and substitute: Maximum penalty: $1 250.
Section 21 Section 22(1) Section 22(2)	In each case, strike out the penalty provision and the expiation fee and substitute: Maximum penalty: $2 500. Expiation fee: $105.
Section 31(1)*(b)*	Strike out "$8 000" and substitute "$20 000".
Section 32(1) Section 32(2)	In each case, strike out the penalty provision and substitute: Maximum penalty: $35 000 or imprisonment for 6 months.
Section 33(3) Section 33(4) Section 33(5)	In each case, strike out the penalty provision and substitute: Maximum penalty: $10 000.
Section 34(1)	Strike out the penalty provision and substitute: Maximum penalty: $5 000.
Section 41	Strike out the penalty provision and substitute: Maximum penalty: *(a)* If the person made the statement knowing that it was false or misleading—$10 000. *(b)* In any other case—$2 500.
Section 42	Strike out the penalty provision and the expiation fee and substitute: Maximum penalty: $2 500. Expiation fee: $105.

Section 49(1)	Strike out this subsection and substitute: (1) Proceedings for an offence against this Act must be commenced— *(a)* in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1921*; *(b)* in any other case—within 2 years of the date on which the offence is alleged to have been committed or, with the authorisation of the Minister, at a later time within 5 years of that date.
Section 53(2)*(f)*	Strike out "a division 7 fine" and substitute "$2 500".
Section 53(2)*(g)*	Strike out " a division 7 fee" and substitute "$210".
Schedule 4, clause 5A(1)	Strike out the penalty provision and substitute: Maximum penalty: $5 000.
9. Security and Investigation Agents Act 1995	
Section 6(1)	Strike out the penalty provision and substitute: Maximum penalty: $20 000.
Section 23(1)	Strike out the penalty provision and substitute: Maximum penalty: $20 000.
Section 29(1)*(b)*	Strike out "$8 000" and substitute "$20 000".
Section 44(1)	Strike out this subsection and substitute: (1) Proceedings for an offence against this Act must be commenced— *(a)* in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1921*; *(b)* in any other case—within 2 years of the date on which the offence is alleged to have been committed or, with the authorisation of the Minister, at a later time within 5 years of that date.
10. Travel Agents Act 1986	
Section 18B(1)*(b)*	Strike out "$8 000" and substitute "$20 000".
Section 42(1)	Strike out this subsection and substitute: (1) Proceedings for an offence against this Act must be commenced— *(a)* in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1921*; *(b)* in any other case—within 2 years of the date on which the offence is alleged to have been committed or, with the authorisation of the Minister, at a later time within 5 years of that date.

These amendments replace the schedule to the Bill as introduced with a fresh schedule. All occupational licensing legislation within the Consumer Affairs portfolio provides penalties for unlicensed activity, both in disciplinary proceedings and in summary proceedings. The maximum penalty for this kind of activity in most Acts is $8 000.

In a recent case, two defendants, a husband and wife, were jointly fined a total of $6 000 in the Administrative and Disciplinary Division of the District Court for breaches of the Second-hand Vehicle Dealers Act. The defendants pleaded guilty to 12 counts of carrying on the business of a dealer without being licensed and three counts of making false representations about the history of the vehicles in the course of three of those sales.

The Commissioner for Consumer Affairs was represented at the trial by an officer from the Crown Solicitor's office, and at the hearing it was argued that a very substantial fine was required. In the event, a fine of $6 000 was imposed. Following the trial, I received a report from the Crown Solicitor commenting that the maximum penalty of $8 000 was insufficient, particularly where the conduct complained of was serious. In the case in question, selling many vehicles without a licence, making considerable profits and misleading purchasers was very serious conduct. It was suggested that the penalty should be $20 000, or even higher.

Accordingly, I had some work undertaken to ascertain what the penalty levels for unlicensed dealing should be. In Queensland, for example, new legislation before the Parliament will increase the penalties for, amongst other things, persons acting as unlicensed real estate agents, auctioneers, commercial agents and second-hand vehicle dealers to 200 penalty units, which currently equates to $15 000. In South Australia, the penalty for the summary offences of undertaking building work without a licence is already $20 000, while for travel agents it is $50 000.

Given that a range of occupations are subject to legislative licensing regimes, it is considered desirable that there be some consistency in the penalties for unlicensed activity able to be imposed. The penalty of $8 000 for unlicensed activity does appear to be low, and the amended schedule raises the penalties currently at that level to a $20 000 maximum. The maximum penalty should act as a deterrent, and a suitably high penalty should be available for the most serious cases of offending. Of course, it will remain a matter for the courts

to determine the appropriate penalty in any given circumstance. The opportunity has also been taken to increase to a similar level the penalties for trust account offences for land agents and conveyancers.

The Hon. CAROLYN PICKLES: The Opposition supports the amendment.

Amendment carried; schedule as amended passed.

Title passed.

Bill read a third time and passed.

ADJOURNMENT

At 10.35 p.m. the Council adjourned until Thursday 19 February at 2.15 p.m.