LEGISLATIVE COUNCIL

Tuesday 6 July 1999

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

LISTENING DEVICES (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That the sitting of the Council be not suspended during the continuation of the conference on the Bill.

Motion carried.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on notice be distributed and printed in *Hansard*: Nos 10, 129, 132, 141, 151-153, 174, 192, 194, and 196.

PROCUREMENT REFORM STRATEGY

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

1. Will the Government direct Government departments to give priority to buying goods and services from local small businesses if they match competitive bids, as referred to on page 22 of the 1998 South Australian Government Procurement Reform Strategy?

2. If not, why not?

3. How much in total was spent by all South Australian Government departments on procuring goods and services during 1997-1998?

4. Of this total, how much was spent on procuring goods and services from South Australian small businesses?

The Hon. R.D. LAWSON: As I have now assumed portfolio responsibility for the subject matter, I provide the following response to the honourable member:

1. The South Australian Government has acted already with regard to giving priority to local small businesses. On 1 June 1998 the Government released the Procurement Reform Strategy in the form of the document 'Purchasing Strategically: the policy framework for reform'. This document includes the requirement that chief executives ensure that staff involved in any aspect of government procurement comply with the principle of utilising 'local industry sourcing where local suppliers can demonstrate competitiveness and capability'.

The same requirement underpins the State Supply Board's policies. Compliance with the board's policies is mandatory for chief executives and agency staff.

2. N/A.

3. Until the start of this financial year the supply statistics that have been collected relate principally to the Governments contracts for goods rather than the purchases that have been made from individual contracts. The State Supply Board is in the process of issuing its new reporting requirements to agencies. These will require chief executives to report on the total goods and services purchases made by their agency on an annual basis.

The most recent available research was undertaken as part of the State Supply Board's Whole-of-Government Procurement Review. It estimated that the total expenditure on goods and services by South Australian Government agencies was $3.3 billion in 1994-95. Of that, $2.6 billion was spent with external suppliers and $0.7 billion was Government to Government spending.

4. Neither the State Supply Board nor the Procurement Review has collected statistics on the breakdown of total purchases by supplier size across South Australia. The location and nature of suppliers will be an item on which chief executives will be required to report in the future. This will enable the Board to track the performance of small and medium sized enterprises in Government procurement.

In excess of 80 per cent of goods and 90 per cent of services in 1994-95 were sourced from South Australian suppliers. Of the total spent by the South Australian Government, 6.7 per cent of goods and 9.4 per cent of services were sourced from South Australian suppliers based outside of the Adelaide metropolitan area.

ADELAIDE AIRPORT

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

1. Is the Minister aware of the recent West Torrens Council report that has revealed the State Government's decision to build over run-off areas during the extension of the Adelaide Airport runway last year failed to provide adequate flood capacity and could lead to water backing up and flooding the airport and other areas?

2. Does the Minister agree with the West Torrens Council report's findings?

3. If so—

(a) Why was the runway extension allowed to proceed considering the possible dangers of flooding through lack of adequate drainage?

(b) How much will it cost to provide adequate drainage?

(c) When will the work be undertaken?

4. If not—

(a) Is the Minister satisfied with the current Adelaide Airport drainage situation?

(b) Is the Minister confident that flooding is unlikely to occur?

5. If flooding does occur at the airport and surrounding residential areas are affected, is the Government liable for compensation?

The Hon. DIANA LAIDLAW:

1 to 3. I am informed that last year the Patawalonga Catchment Water Management Board commissioned BC Tonkin and Associates to prepare a report dealing with stormwater drainage on the western side of the airport. I understand that this report has been forwarded to the West Torrens Council.

I am not aware of any Council report associated with this study or the matter in general.

The runway extension plans were prepared as recommended in the 1996 Adelaide International Airport Runway Environmental Impact Statement (EIS) which was approved by independent assessment. Drainage works associated with the project were designed and supervised by experienced professional stormwater drainage consultants Kinhill Pty Ltd to accepted design standards—and provide for existing drainage flow rates to be safely discharged to the Patawalonga Basin.

Drainage issues in the area were clearly identified in the EIS as pre-existing and unrelated to the runway project.

The West Torrens Council has management responsibility for drainage issues in its council area, including drains upstream of the airport that they have been enlarging for some years and drains alongside and downstream of the airport.

I am advised that council has convened a group of key stakeholders which will oversee further investigations by suitably qualified consulting engineers on the best way of accommodating future increased peak flows south of West Beach Road. Various Government agencies, led by the Department of Environment and Heritage, are supporting this process.

As a result, the council has successfully applied to the State Government's Catchment Management Subsidy Scheme for funding for the engagement of consultants to undertake the necessary investigations. I understand that council has now engaged the consultants. In due course therefore, it will be possible to determine what works are needed, at what cost and the time-frame in which the works should be undertaken.

4. (a) Yes.

(b) There is always the potential for the flooding of any area if a sufficiently heavy rainfall occurs. However, I am confident that there has been nothing done with the runway extension that will exacerbate flooding in any way.

5. The Crown Solicitor has advised that the Government is not at risk, taking into account that the Patawalonga Creek's drain was designed, specified and its construction supervised by appropriately skilled engineers.

PANAMAX VESSELS

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

1. Is the State Government considering the recent Deep Sea Port Investigation Committee Report's recommendations that South Australia—

(a) Develop the grain ports at Port Giles and Port Adelaide to full panamax capability and Wallaroo to part panamax capability;

(b) Develop the grain export facilities over a five year period; and
(c) Immediately commence detailed project planning and implementation of the developments at Port Giles, Port Adelaide and Wallaroo?
2. If so—
(a) What role will the State Government play in the implementation of the recommendations; and
(b) When is work likely to start?

The Hon. R.I. LUCAS: The Deputy Premier, Minister for Primary Industries, Natural Resources and Regional Development has provided the following information:

The final report of the Deep Sea Port Investigation Committee was released in March 1999. The State Government is well briefed on the recommendations of the Deep Sea Port Investigation Committee.

The investigation into a deep sea port for South Australia was an industry initiative based on a world trend to larger ('Panamax') ships that provide economies of scale and lower marketing costs.

The Deep Sea Port Investigation Committee has comprised representatives from the grains industry—including producers, marketeers and handlers—the transportation sector, and the State Government.

In September 1998, the Deep Sea Port Investigation Committee recommended full Panamax capacity development for Port Adelaide and Port Giles, with development of Wallaroo for capacity to partially load Panamax vessels.

The principal organisations concerned with implementation of the recommendations are South Australian Cooperative Bulk Handling (SACBH) and the South Australian Ports Corporation (Ports Corp).

Both SACBH and the Ports Corp have been continuously involved throughout the investigation and have provided key technical input in to the extensive analysis.

Most of the substantial benefit expected from implementation of the recommendations will arise from cost savings to the grains industry through lower sea freight rates and reduced grain holding costs.

Preliminary design work and technical planning is already underway by South Australian Ports Corporation and South Australian Cooperative Bulk Handling.

WOMEN, REPRESENTATION

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

1. Could the Minister please provide a complete list of the current representation of women on all Government boards and committees listed with the Boards and Committee Information System, in light of the Government's policy goal of 50 per cent representation of women on all Government boards and committees by the year 2000?

2. Considering 51 Government boards and committees still have no women members—

(a) What pro-active measures is the Minister undertaking to ensure the target of 50 per cent women representation on all Government boards and committees is reached; and
(b) Could the Minister list the 51 Government boards and committees which still have no women members?

3. Is the Minister confident that the target of 50 per cent women representation on all Government boards and committees will be met by the year 2000?

4. If not, why not?

The Hon. DIANA LAIDLAW:

1. The Boards and Committee Information System (BCIS), shows the representation of women on Government Boards and Committees including deputies was 31.79 per cent at 6 May 1999. Details are as follows—

Portfolio	Men	Women
Premier	77.27%	22.73%
Minister for State Development	68.29%	31.71%
Minister for Multicultural Affairs	53.85%	46.15%
Minister for Primary Industries, Natural Resources and Regional Development	76.80%	23.20%
Treasurer	78.18%	21.82%
Attorney General	68.42%	31.58%
Minister for Consumer Affairs	73.60%	26.40%
Minister for Human Services	61.35%	38.65%
Minister for Transport and Urban Planning	73.42%	26.58%
Minister for the Arts	49.52%	50.48%
Minister for the Status of Women	0.00%	100.00%
Minister for Government Enterprises	79.04%	20.96%
Minister for Education, Children's Services & Training	49.06%	50.94%
Minister for Environment and Heritage	72.58%	27.42%
Minister for Aboriginal Affairs	62.50%	37.50%
Minister for Industry & Trade	70.67%	29.33%
Minister for Recreation & Sport & Racing	75.00%	25.00%
Minister for Administrative Services	66.67%	33.33%
Minister for Police, Correctional Services & Emergency Services	76.47%	23.53%
6 May 99 Total:	68.21%	31.79%

2. (a) South Australia's representation of women on Government boards and committees is the highest of any State in Australia. One of the most successful initiatives has been the use of executive search to identify women for Government boards and committees. This initiative is now being taken up by the Commonwealth Government and other States.

There are a number of initiatives in place to increase the numbers of women, including:

- the maintenance of a Women's Register, a data base which lists the current details of some 400 skilled women;
- Ministers, agencies and authorities are required to consult the Women's Register when seeking nominations;
- Cabinet requires, where nominations are made by representational bodies, a panel of three nominees, one of whom must be a woman and one a male be provided to the Minister concerned;
- the Office for the Status of Women conducts regular executive searches to identify additional women – currently 56 such women have been identified; and
- the Office for the Status of Women works with the Institute of Company Directors to ensure women participate in development programs.

In 1999, the Government will:

- investigate the numbers of appointments required by 'outside' bodies over which a Minister does not have discretion to appoint. In this way, there will be a more accurate picture of performance;
- launch an induction manual for new women board members and a 'checklist' for Chairs of Boards and Committees;
- distribute the Women's Executive Search to all Ministers and Chief Executives—and the Office for the Status of Women will continue to work closely with Chief Executives and Ministers' offices to ensure the names of appropriate skilled women are considered.

(b) The 1998 Women's Statement identified 51 boards that had no women members. Advice has since been received (based on data from the BCIS) that ten of the committees included in this list should be removed:

- South Australian Marine and Estuarine Strategy Executive Steering Committee (disbanded)
- Living Health – Health Advisory Committee (disbanded)
- Medical Practitioners Professional Conduct Tribunal (1 female)
- Road Safety Consultative Council (disbanded)
- State Opera Ring Corporation (1 female)
- Construction Industry Long Service Leave Board (1 female)
- Anangu-Pitjantjatjara Council (2 females)
- Community Advisory Committee (1 female)
- Aquaculture Management Committee (1 female)
- National Heritage Trust Regional Assessment Panel (6 females)

An amended list is now provided of the remaining 41 boards:

1. Asbestos Advisory Committee
2. Australian Barley Board
3. Border Groundwater Review Committee
4. Combined Advisory Board Government Reclaimed Irrigation Areas
5. Commissioners of Charitable Funds
6. Community Service Committee—Ceduna
7. Community Service Committee—Port Augusta
8. Community Service Committee—Port Pirie
9. Community Service Committee—Whyalla
10. Deer Compensation Fund Advisory Committee
11. Eight Mile Creek Water Conservation and Drainage Advisory Committee
12. ETSA Power Corporation
13. ETSA Transmission Corporation (ElectraNet SA)
14. ETSA Corporation Audit Committee
15. ETSA Corporation Finance Committee
16. Exempt Employer Appeal Panel
17. Flinders Power Pty Ltd
18. Gamblers Rehabilitation Fund Committee
19. Local Government Superannuation Board—Investment Committee
20. Marion Regional Centre Committee
21. Mintabie Consultative Committee
22. Motor Accident Commission Investment Committee
23. National Electricity Tribunal
24. Optima Energy Pty Ltd
25. Parliamentary Superannuation Board
26. Police Appeal Board
27. Police Disciplinary Tribunal
28. Port Pirie Lead Implementation Program
29. Remuneration Tribunal
30. Renmark Irrigation Trust
31. Rural Adjustment Screening Committee
32. Silicosis Committee
33. Soil Conservation Appeal Tribunal
34. SA Fisheries Research and Advisory Board
35. SA Thoroughbred Racing Authority
36. South Eastern Water Conservation and Drainage Board
37. Southern Group Insurance Corporation Limited
38. State Crewing Committee
39. State Urban Design Advisory Panel
40. Terra Gas Trader Pty Ltd
41. Water Well Drilling Committee

3. and 4. South Australia is leading Australia in the representation of women on Government boards and committees. However, there is still some way to go to meet the goal of 50 per cent representation—and the Government is actively addressing this issue.

INDUSTRIAL AND EMPLOYEE RELATIONS

151. **The Hon. T.G. CAMERON:** In view of the growing evidence that the provisions in the Industrial and Employee Relations Act (particularly sections 65 and 102) place restrictions on the abilities of the Inspectorate and the Office of the Employee Ombudsman to deal effectively with cases of non-compliance with the Act—

1. Will the Government amend the Industrial and Employee Relations Act 1994 to give inspectors, including the Office of the Employee Ombudsman, the power to investigate breaches of awards, enterprise agreements and state legislation, without having to receive a specific complaint?

2. If not, why not?

The Hon. R.I. LUCAS: The Minister for Government Enterprises has provided the following information:

1. On 11 March 1999 the Government introduced a Bill to amend the Industrial and Employee Relations Act 1994 ('the Act') to give industrial inspectors, but not the Employee Ombudsman, the power to investigate alleged breaches of industrial awards, agreements and industrial legislation without a specific complaint from an employee.

2. The amendments will also ensure that the Employee Ombudsman plays a critical and comprehensive role in relation to workplace agreements. The Government believes that employees should be able to obtain independent and informal assistance when negotiating either an individual workplace agreement, or a collective workplace agreement. The Government's amendments will ensure that the Employee Ombudsman will continue to be able to provide such assistance, where employees request it. The Government also believes that the Employee Ombudsman's role should extend beyond assisting and advising when requested, to representing those employees who request his assistance with an agreement, and investigating allegations of coercion, harassment and improper pressure in relation to an agreement upon a request from an employee. The amendments proposed by the Government will ensure the Employee Ombudsman's role is clear in this regard. I look forward to the honourable member supporting these amendments and the other initiatives being proposed by the Government.

EMPLOYEE OMBUDSMAN

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

1. Will the Government amend the Occupational Health, Safety and Welfare Act 1986 to give the Office of the Employee Ombudsman the powers of the Inspectorate under the legislation?

2. If not, why not?

The Hon. R.I. LUCAS: The Minister for Government Enterprises has provided the following information:

1. No.

2. The Government's workplace relations reforms will be refocussing the Employee Ombudsman's role on one of the most critical areas of the reform, namely Workplace Agreements. The Government regards the Employee Ombudsman's help in this area as a crucial part of attending to the interests of employees. The Government believes that employees should be able to obtain independent and informal assistance from the Employee Ombudsman when negotiating either an individual workplace agreement or a collective workplace agreement. The Government's amendments will ensure that the Employee Ombudsman will continue to be able to provide such assistance to those employees who request it.

The Government also believes that the Employee Ombudsman's role should extend beyond assisting and advising, to representing those employees who request his assistance with an agreement. The Government's amendments will make it clear that the Employee Ombudsman has these representational powers.

Occupational health and safety issues are adequately and effectively dealt with by the Department for Administrative and Information Services (DAIS). DAIS provides information to both employers and employees as to their rights and obligations under the workplace relations and occupational health and safety legislation. DAIS employs inspectors who have the right to enter workplaces to ensure that terms and conditions of work, as well as occupational health and safety standards, are met.

It is appropriate that Occupational Health, Safety and Welfare Act 1986 issues be dealt with by the inspectorate of Workplace Services, which has greater resources than the Office of the Employee Ombudsman and specialises in occupational health and safety inspectoral matters.

The Employee Ombudsman's primary function will be to deal with agreement making. By refocussing the role of the Employee

Ombudsman, duplication of taxpayer funded services will be reduced, and worker protection increased.

OUTWORKER CONTRACTS

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

1. Will the Government develop a Code of Practice (approved under the Occupational Health, Safety and Welfare Act 1986 and specifying the minimum health and safety standards in any contract offered that involves outwork) to establish a proper framework for the employment of outworkers?

2. If not, why not?

The Hon. R.I. LUCAS: The Minister for Government Enterprises has provided the following information:

1. No.

2. An appropriate legislative framework already exists for the protection of outworkers. For example:

- The Industrial and Employee Relations Act 1994 covers 'employees', which includes those 'outworkers' who are covered by an award. This definition is not limited to the clothing industry but rather contemplates any industry where the outworker works on, processes, or packs articles or materials, or carries out clerical work. Currently, there is a state award that covers outworkers in the clothing industry.
- If the industrial parties consider that insufficient, or no protections exist in a particular industry or part of an industry, they may apply to the Industrial Relations Commission of SA for an award of new or improved conditions to cover that area.
- The Occupational, Health, Safety and Welfare Act 1986 requires most outworkers to be provided with a safe place of work.
- If an outworker who is covered by an award or enterprise agreement that is expressed to apply to outworkers is injured at work, the outworker is covered by the existing Workers Rehabilitation and Compensation Act 1986.
- It is also considered that the current enforcement levels in relation to outworkers are adequate. The Department for Administrative and Information Services (DAIS) has not received any recent complaints from outworkers in the clothing industry. In any event, DAIS is able to, and does, investigate complaints once they are made.
- The Government's proposed amendments to the Industrial and Employee Relations Act 1994, which were introduced to the Parliament on 11 March 1999, will also increase protections for all employees, including outworkers, through enabling inspectors of DAIS to be pro-active and investigate employment conditions without requiring a complaint to be made first.
- Furthermore, in the Bill the Government has highlighted the role of the DAIS inspectorate in relation to outworkers by conferring upon inspectors an express function of monitoring the conditions under which work is carried out in the community under contractual arrangements with outworkers.

TOURISM COMMISSION TRAVEL CENTRE

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

1. Is the Treasurer aware of complaints that members of the public seeking information have to wait up to 15 minutes for service at the South Australian Tourism Commission Office in King William Street?

2. Have the number of client service staff at the South Australian Tourism Commission in King William Street been cut in the past twelve months?

3. If so, how many positions have been cut?

4. What were the reasons for the cuts?

5. Has the King William Street Office express counter also been removed?

6. If so, for what reasons?

7. In the interests of public service, will the express counter be reinstated?

The Hon. R.I. LUCAS: The Minister for Tourism has provided the following response:

1. Some correspondence regarding service standards at the South Australian Tourism Commission's (SATC) Travel Centre located at 1 King William Street has been received and responded to by myself and the SATC.

2. A number of staff from the Travel Centre elected to take advantage of the Government's offer of voluntary redundancy packages.

3. 10 staff in the Centre (including call centre staff) accepted the Government's offer of voluntary redundancy and have left the Travel Centre over the past twelve months. There have been no forced redundancies.

4. The Travel Centre is currently undergoing a number of reforms to ensure that the highest possible service is available. This reform includes a review of many operational issues relating to the Travel Centre, such as it's layout, staff training, the method and structure of service delivery, the relationship between information provision and sales bookings, the use of technology and staffing numbers.

As a result of the review, the following action has already been taken:

- some initial adjustments to the layout of the centre have been made;
- staff from our Call Centre have been relocated to the front counter to provide a more flexible staffing structure to meet peak demand periods; and
- a new Travel Centre manager has been appointed.

The new manager will be expected to further consider all of the issues and concerns raised about the Travel Centre. Ultimately, I expect them to ensure that the standard of service provided meets those that the South Australian public has a right to expect and should certainly be available to all tourists.

5. No, an express service is still available to clients for the information counter and staff are located at the front of the Centre, while detailed bookings are separately handled behind this service. An express brochure collection facility also exists through the self-service brochure racks located to the right on entering the Centre.

6. Not applicable.

7. Not applicable.

ALCOHOL IGNITION INTERLOCK TRIAL

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

1. What were the results of the Riverland drink-drive lock trials reported to the Minister more than two months ago?

2. When will the Minister make a decision on the introduction of the locks?

3. Will the Minister release the Transport SA report?

4. If not, why not?

The Hon. DIANA LAIDLAW:

1. The six month Riverland Alcohol Ignition Interlock Trial conducted among a group of 24 volunteers provided information about the practical use of interlocks by members of the public. It also provided experience in the supply and maintenance of interlocks supplied by a manufacturer under a formal contract. Such information will provide valuable input to any further deliberations into the possible introduction of interlocks as a sentencing option for courts in regard to drivers convicted of drink driving offences.

The main conclusions were that—

- an alcohol ignition interlock program is feasible;
- there is sufficient technical development in alcohol ignition interlock devices to enable an alcohol ignition interlock program to be developed for recidivist drink drivers; and
- it is feasible to contract out most of the operational requirements.

2. A reference group is being formed to develop final recommendations within six months on the details of an interlock scheme. The Reference Group will look at all aspects of operating an interlock scheme including potential costs, the responsibility for those costs and eligibility for involvement in an interlock scheme.

3. I released the report on the Riverland Alcohol Ignition Interlock Trial on 11 April 1999.

4. Not applicable.

KANGAROO ISLAND, DESALINATION PLANTS

194. **The Hon. CARMEL ZOLLO:**

1. (a) Would the Attorney-General advise, further to the commissioning of a desalination plant for Penneshaw, Kangaroo Island, whether any other desalination plants are planned for South Australia;

(b) If so, at which locations; and

(c) What time frames have been discussed?

2. Will the Penneshaw plant, and any other planned plants, be solely Government financed, entered into as joint ventures with private enterprise, or be wholly built, financed and owned by private enterprise?

3. (a) Is a plant, or plants, being considered for Yorke Peninsula and specifically Coobowie; and
(b) If not, what is the likelihood of such plants receiving consideration in the near future?

The Hon. K.T. GRIFFIN: The Minister for Government Enterprises has advised that:

1. (a) The Government and SA Water have no commitment to the establishment of desalination plants other than to serve Penneshaw.
(b) Not relevant
(c) Not relevant

2. The Penneshaw plant is solely Government financed. It is being built by contractors and will be owned and operated by SA Water.

3. (a) The majority of Yorke Peninsula is supplied by water from a pipeline system which originates from the Swan Reach-Stockwell and Morgan-Whyalla pipelines. These supplies are filtered at plants near Swan Reach and Morgan. Coobowie is one of the towns supplied from this system. The salinity of water supplied within this system, being predominantly filtered River Murray water, is classed as 'good' under the Australian Drinking Water Guidelines. Consequently, desalination at this location is not considered necessary.

Warooka, which is also on Yorke Peninsula, is not supplied by the pipeline system described above. The salinity of the supply at Warooka is classed as 'fair' under the Australian Drinking Water Guidelines. Desalination at Warooka is not planned in the foreseeable future.

(b) Refer to Question 3. (a).

SOUTHERN EXPRESSWAY

196. **The Hon. T.G. CAMERON:** Why is the Southern Expressway now expected to cost $137.5 million, $25.5 million more than the $112 million announced in march 1995, considering that the national inflation rate has been negligible for the past two years and negative in South Australia?

The Hon. DIANA LAIDLAW: This project was announced in March 1995 at an estimated cost of $112 million. This was a concept estimate at January 1994 prices.

The Public Works Committee submission of November 1995 valued the project at $120 million, as a planning estimate, within an accuracy of 20 per cent, giving an upper limit project cost of $144 million (January 1996 prices).

The current project estimate of $137.5 million has been developed following detailed planning and design work, and takes account of a number of changes to the scope of the project, including—

- extensive landscaping which includes the provision of paths for cyclists and pedestrians. These community needs were identified during the successful community consultation program for the Southern Expressway;
- increased environmental management requirements particularly with respect to stormwater run-off, the extent of noise attenuation measures i.e., noise barriers, and construction management;
- the need for improved traffic management systems to increase public safety; and
- additional provisions for aboriginal horticulture traineeships in conjunction with the development of the project.

The current estimate also allows for escalation to the completion of the project. This is based on the Transport SA Price Index derived from a weighted average of a number of road expenditure activities, which indicates the trend in roadwork prices over time. The Transport SA Price Index increased by 6.7 per cent between 1994-95 and 1997-98.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Regulation under the following Act—
Fees Regulation Act 1927—Water Assessment
Directions to ETSA Corporation—Ministerial Directions
Motor Accident Commission—Charter

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

Regulations under the following Acts—
Acts specified in Schedules—Variation and Revocation
Apiaries Act 1931—Fees
Criminal Law (Sentencing) Act 1988—Drivers Licence Disqualification Fee
District Court Act 1991—Fees
Environment, Resources and Development Court Act 1993—
General Jurisdiction Fees
Other Fees
Evidence Act 1929—
Prescribed Courts
Reproduction of Documents
Explosives Act 1936—Revocation
Fisheries Act 1982—
Abalone Fishery
Blue Crab Fishery
General
Lakes and Coorong Fishery
Marine Scalefish
Miscellaneous Fishery
Prawn Fisheries
Revocation
River Murray Fishery
Rock Lobster Fishery
Magistrates Court Act 1991—Civil Fees
Opal Mining Act 1995—Marla
Sewerage Act 1929—Fees
Sheriff's Act 1978—Fees
Waterworks Act 1932—Fees
WorkCover Corporation Act 1994—Statutory Reserves
Youth Court Act 1993—Fees
Supreme Court Rules 1987—Enforcement of Orders
Rules of Court—Supreme Court—
Direction to South Australian Totalizator Agency Board—Ministerial Directions
State Electoral Office—General Elections 11 October 1997 Election Report

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

Fire Equipment Services South Australia—Report 1997-98
Regulation under the following Act—
Police Act 1998—General

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

Regulations under the following Acts—
Liquor Licensing Act 1997—
Age Identification Code
Long Term Dry Areas—
Hallett Cove
Port Pirie
Travel Agents Act 1986—National Deed of Trust

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

Aboriginal Lands Trust—Report, 1997-1998
Regulations under the following Acts—
Chiropodists Act 1950—Fees
Controlled Substances Act 1984—Expiation of Offences
Development Act 1993—Retail Developments
Harbors and Navigation Act 1993—Petroleum Transfer
Nurses Act 1999—Electoral
Passenger Transport Act 1994—Vehicle Accreditation
Reproductive Technology Act 1988—Ethical Practice
South Australian Health Commission Act 1976—
Medicare Patient Fees
Recognised Hospital Fees
Third Party Premiums Committee—Determinations.

HANSARD, ELECTRONIC

The PRESIDENT: As honourable members know, the Weekly *Hansard* is now available on the Internet on the Tuesday following a sitting week. It has now been decided

that, as from the start of the spring session, a corrected Daily *Hansard* will be put on the Internet at about 4 p.m. on the day following a sitting, thus considerably improving this service to members and the public by making *Hansard* available some days sooner than is presently the case.

It is also intended, from the beginning of next session, to extend throughout Parliament House on the Intranet the present on-line service now available in the *Hansard* office and the Parliamentary Library that provides electronically both uncorrected Daily and Weekly *Hansard*. In this form, the uncorrected Daily *Hansard* will be available within a couple of hours of Parliament's adjourning in the evening. For reasons of confidentiality, this service should remain in-house.

I take this opportunity to remind honourable members that any corrections to *Hansard* should relate only to inaccuracies; they must not alter the meaning of anything said or introduce new matter.

STATUTORY AUTHORITIES REVIEW COMMITTEE

The Hon. L.H. DAVIS: I lay on the table evidence of the committee on an inquiry into the management of West Terrace Cemetery by the Enfield General Cemetery Trust.

PORT STANVAC OIL SPILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a ministerial statement in relation to the recent Port Stanvac oil spill.

Leave granted.

The Hon. DIANA LAIDLAW: As background, I advise that around 6 a.m. on Monday 28 June 1999 a spill of light crude oil occurred off the Mobil refinery at Port Stanvac. The Mobil pilot immediately put into effect the Port Stanvac contingency plan and notified the State Oil Spill Commander, Captain Walter Stuart, at 6.02 a.m. that there was 'a tier two spill with a possible upper limit of 250 tonnes (250 000 litres) or 30 tonnes (30 000 litres) at the lower level. . . '. An emergency response team, directed by Transport SA and involving the Environment Protection Agency and the RSPCA, immediately went into action. Clean up operations were also assisted by the South Australia Police, State Emergency Services, PortsCorp, the Australian Marine Safety Authority and Mobil.

Following consultation with a marine biologist and the Environmental Support Coordinator and with a knowledge that the Oman crude oil that escaped is very amenable to chemical dispersion within 24 to 48 hours of a spill, the main clean up strategy involved the use of aerial spraying techniques using aircraft from Australian Maritime Resources (a South Australian company). Only those dispersants which have been tested for toxicity and dispersal efficiency and approved by the Australian Maritime Safety Authority were used in these efforts.

The first flight took place at 9.21 a.m. on Monday 28 June. This activity continued through daylight hours until 5 p.m. on Tuesday 29 June. Initially the oil slick covered an area of about 1 000 metres by 250 metres and, while Mobil initially reported the spill as 25 000 litres, on Friday 2 July 1999 it revised this to 270 000 litres. While this was considerably larger than first indicated, I do wish to stress that the response was mounted on the oil present and not to a precise volume.

Meanwhile, tugs were mobilised to assist in further dispersion by mechanical means, and an oil skimmer was used to clean up the remaining thicker oil. As a precaution, booms were placed across the mouth of the Onkaparinga River by 8.23 a.m. to prevent damage to the estuary. Small creeks between the refinery and Mypolonga were also blocked off on that day. Maximum use was made of helicopters to both oversee and direct the spraying operations, to strategically locate resources along the beaches and to track any movements of the slick. The on-site planners devised unique snare lines to trap oil in the surf zone that greatly reduced the impact. The emergency response vessel *Gallantry* was used throughout as the main offshore response vessel.

Sixteen clean-up crews of six people each were on standby to clean up any affected beach areas. The RSPCA was also on site with a wildlife trailer to tend to any wildlife that may have been affected by the spill. Up to today, only one oiled seagull has been found, although there are reports that some others have been sighted. A seagull is undergoing cleaning at the Marine Rescue Unit. As a result of all these actions by Thursday 1 July, the spill was contained, and by Friday 2 July a thorough clean-up process was completed.

Currently, Mobil is providing twice weekly patrols, and the RSPCA conducts daily patrols. Officers of the EPA in conjunction with Fisheries and Mobil's environmental officers are putting a long-term monitoring program in place, with particular emphasis on sensitive areas such as the Aldinga Reef and beaches in the area. The clean-up operation, conducted in accordance with the national plan to combat pollution of the sea by oil or other noxious and hazardous substances, has been very successful. I commend all those involved in the clean-up operation. Mobil is required by law to pay for the clean-up, and any costs to Government agencies will be reimbursed by Mobil.

To this point, the agencies and Mobil have been most heavily involved in the clean-up operations. Investigations to date have included discussions with Mobil, inspection of the site and securing the failed equipment alleged to have been the major contributory cause of the spill. Expert engineers have commenced an initial assessment of the failed equipment, and this will be assisted by today's arrival of a team from the United Kingdom manufacturer of the equipment, brought to Australia by Mobil. Yesterday the Minister for Environment and Heritage, (Hon. Dorothy Kotz) and I announced the launch of a formal investigation of the causes of the spill to determine whether there have been breaches of the Pollution of Waters by Oil and Noxious Substances Act 1997 and a general review of procedures.

Investigation of this spill comes under this Act because it involves discharge of oil or any other oily mixture from an apparatus in State waters. The investigation will be headed by the Government Investigations Office through the Crown Solicitor's Office and will include representatives of Transport SA and the Environment Protection Authority. The investigation will include interviews with members of the crew of the ship associated with the spill. The EPA has also commissioned an independent impact assessment of the oil spill on the marine environment using marine biologists from both the University of Adelaide, looking at tidal estuaries, and Flinders University, looking at beaches. Preliminary results are expected by Thursday. Further assessment work will be undertaken over the next few weeks.

Action taken under the Pollution of Waters by Oil and Noxious Substances Act 1987 is dependent on the outcome of investigations, which should be completed within a four

week period. Similarly, any action to be taken under the Environment Protection Act will depend upon the outcome of the investigations, which should be completed within the three months period. The results of both investigations will be referred to the Crown Solicitor's Office for an opinion on whether a case exists for legal action to be taken upon either or both the Pollution of Waters by Oil and Noxious Substances Act 1987 or the Environment Protection Act 1993. The EPA acts autonomously in its enforcement of the Environment Protection Act and is not subject to the direction of the Minister in these matters. This includes assessing the advice from the Crown on potential breaches and to determine what action is to be taken if the investigation reveals that a breach of the Environment Protection Act has occurred.

The formation of the joint investigation team by the Government Investigations Office, Transport SA and the EPA will facilitate a full and thorough examination of all circumstances surrounding the oil spill and the prevention of such occurrences in the future. I will report on the outcome of these investigations, noting that the release of the investigations is, however, contingent upon whether or not prosecutions are launched.

QUESTION TIME

The PRESIDENT: Before we start Question Time, I point out to the Council that, after we adjourned on 10 June, and bearing in mind the Hon. Mr Crothers' new status as an Independent, I circulated all Parties and Independents with a suggestion for the sequence of Question Time. I have not heard back from anyone other than the Hon. Mike Elliott, who has spoken to me. Bearing in mind that I need to recognise those who stand first, as is the rule, we have over the years developed a sequence of asking questions to which we try to adhere as closely as possible. I will go a little by ear today because I have not heard back from the various leaders how they would like the question sequence to proceed.

The Hon. T. CROTHERS: Mr President, I indicate that I will be running as an Independent Labour candidate.

PORT STANVAC OIL SPILL

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Mobil oil spill.

Leave granted.

The Hon. CAROLYN PICKLES: Yesterday, the Minister for the Environment said that Mobil had been fined $24 000 for the 1996 oil spill at Port Stanvac and also said:

> There are areas within the Transport Act which does, in effect, enable a mandatory amount of penalty to the discharge of oil regardless of whether it is negligent or not, and there is a $200 000 fine that is attached in that particular aspect.

My questions are:

1. Can the Minister detail that section of the Transport Act that imposes a mandatory fine of $200 000 for the discharge of oil, regardless of whether or not it is negligent?

2. If that is correct, did this section apply in 1996 at the time of the last major oil spill?

3. Will Mobil be automatically fined for the latest oil spill? (I notice that the Minister detailed something in her statement today.)

4. Was the statement by the Minister for the Environment wrong?

The Hon. DIANA LAIDLAW: There are two provisions in the Pollution of Waters by Oil and Noxious Substances (Consistency with Commonwealth) Amendment Act 1994 in relation to—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: Well, it is committed to the Minister for Transport and Urban Planning, but it is a very specific piece of legislation which is consistent with Commonwealth legislation, so that we have uniformity of rules, regulations and procedures across Australia when dealing with the pollution of waters by oil and noxious substances. There are two different provisions: whether the discharge is from a ship (section 8 of the Act); or whether discharge occurs other than from a ship (section 26). I advise that in both cases there is a mandatory maximum penalty but that a penalty applies upon conviction or after a charge has been heard.

In terms of the honourable member's question about the company being automatically fined on this occasion, I did outline in my statement today that a joint investigation is being undertaken under the Pollution of Waters by Oil and Noxious Substances Act. That is being led by the investigations office, and I indicated also that that report will be referred to the Crown Solicitor to report in terms of any prosecutions based on those investigations. So, only if it is determined that there are to be prosecutions, if those charges are then held and if Mobil is found to be guilty, would the mandatory maximum penalties apply.

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

Leave granted.

The Hon. CAROLYN PICKLES: It has been reported that, while the true extent of the oil spill was not announced until last Friday evening, 2 July, Mobil knew on Wednesday 30 June 1999 that oil had been lost from the company's onshore storage and therefore knew it was greater than 25 000 litres. My questions are:

1. When was the Minister first advised of the true extent of the oil spill that occurred on 28 June?

2. How did Transport SA know that it needed sufficient equipment and staff to clean up a spill much larger than 25 000 litres?

3. Can the Minister confirm that Government agencies knew much earlier than last Friday that the spill was closer to 270 000 litres?

The Hon. DIANA LAIDLAW: I was advised on Friday when Mobil issued a press release confirming the 270 000 litres. As I indicated in my ministerial statement today, however, that possibility was always around. I repeat what I said in my statement today: the Mobil pilot immediately put into effect the Port Stanvac contingency plan and notified the State Oil Spill Commander, Captain Walter Stuart, at 6.02 a.m. that there was 'a tier two spill with a possible upper limit of 250 tonnes (250 000 litres) or 30 tonnes (30 000 litres) at the lower limit'.

A broad range of options within tier two response contingencies were alerted to Captain Walter Stuart right from the start. So, the response that he initiated was within the plan which has been authorised and which is in operation in South Australia and elsewhere across Australia in terms of national standards in accordance with oil spills. As I also stated in my ministerial statement, the response that was mounted related to the oil present and not to a precise

volume. That is why the three tiers of response that are available under the Act and the action plans do provide for a broad range of response techniques, and that was the case in this instance. The honourable member asked a third question about Government agencies.

The Hon. Carolyn Pickles: How did Transport SA know that it needed sufficient equipment and staff to clean up the larger spill?

The Hon. DIANA LAIDLAW: I think I have answered that: it responded to the advice that it was a tier 2 spill.

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Transport a further question about the oil spill.

Leave granted.

The Hon. CAROLYN PICKLES: On radio today the Environment Protection Authority Chairman, Stephen Walsh, said:

> It is a little frustrating to us that there is a difference in terms of jurisdiction between the Department of Transport on the one hand and the authority on the other hand because the public see us as the environmental watchdog in this State.

The Hon. M.J. Elliott: Dorothy would have fixed it.

The Hon. CAROLYN PICKLES: I do not think she was interested. The statement by the Chairman of the EPA follows repeated statements by the Minister for the Environment that she has no responsibility for oil spills such as that which occurred on 28 June at Port Stanvac and raises serious questions about the protocols in place to ensure that this kind of incident does not happen in South Australia. I notice that the Minister has in her ministerial statement today indicated that an inquiry will be set up, but the Opposition would not be satisfied with that kind of inquiry.

Given the statement today by the head of the EPA, will the Minister support the establishment of a public and independent inquiry such as a judicial inquiry at arm's length to the Government, first, to investigate all aspects of the latest spill at Port Stanvac and the roles undertaken by the EPA and Transport SA; and, secondly, to review the regulation of the petrochemical industry in South Australia, to develop better protocols and procedures to protect our marine environment?

The Hon. DIANA LAIDLAW: I indicated in my statement today—and I suspect the honourable member has not had the benefit of digesting everything in the statement—that the investigation would not only look at the causes of the spill and determine whether there are breaches of the Pollution of Waters by Oil and Noxious Substances Act 1987 but also conduct a general review of procedures. I would highlight to the honourable member that the approach—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: You have asked your question. I highlight to the honourable member, the shadow Minister for Transport, that the procedure being followed is the procedure, in terms of investigations, set down in the Act that this Parliament has passed and was introduced by the former Labor Government in 1987. We are exactly following the procedures that apply across Australia and were introduced by the former Government. We are not diverting from that, and the Parliament has determined the appropriate way in which to investigate such a major spill and, in fact, any spill, no matter what the degree of the spill may be.

It is very clearly set down in this Act, and I indicated that we will be looking at the causes of the spill, whether there are breaches in terms of grounds for prosecution and a general review of procedures. I would have thought that the honourable member would welcome those grounds for investigation and that she would also welcome the fact that this is being led by the officer within the Government Investigations Office through the Crown Solicitor's Office and will also include people trained in this field—Transport SA and the Environment Protection Authority. They are the people charged under the Act that we have passed in this Parliament to undertake such investigations, and the Government will honour what Parliament has established as the correct procedure in such matters.

The Hon. CAROLYN PICKLES: As a supplementary question, will the inquiry be public and will the report be tabled in Parliament?

The Hon. DIANA LAIDLAW: Clearly the honourable member has not had time to digest my statement. The correct procedure is that the outcome of the investigations is released subject to whether or not prosecutions are launched, and that is not unusual in the judicial circumstances. I highlight to the honourable member and to members generally that that was the content of the last sentence of my ministerial statement.

In terms of a public hearing, that is not specifically provided for in the Act and it certainly was not specifically provided for when establishing this investigation. I highlight that a public meeting already has been called by Mobil, and that was held last weekend. The concerns of the public and the concerns of the Government and members of this place are well known. It will be a thorough and diligent inquiry. This is not—

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: The Act is committed to me.

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport, Urban Planning and the Arts a question about the oil spill at Port Stanvac on Monday 28 June.

Leave granted.

The Hon. SANDRA KANCK: My office has received information regarding the recent spillage of 270 000 litres of oil at Port Stanvac. The breakaway couplings of the floating hose system attached to the single point mooring buoy have been identified as one source of the spill. The Port Stanvac single point mooring normally operates using two floating hoses, and when in use both hoses are fitted with a breakaway coupling.

On the occasion of the spill only one hose was connected. These devices were incorporated when the system was installed in 1992. The breakaway coupling is designed as a fail-safe device to protect the integrity of the hose strings should a vessel break out of the berth. The couplings consist of three parts: the central section which is constructed to break at a load that is less than the force that could rupture the hoses; and two valves that are designed to shut instantly when the couplings break, thus sealing the hose and averting an oil spill.

My office has been informed that when the single point mooring was serviced at the Australian Submarine Corporation approximately 2½ years ago the breakaway couplings were tested and failed, that the valves failed to shut when the couplings broke. The couplings were then remachined, retested and reused. Senior management was fully informed and concerns were expressed about the wisdom of continuing to use these units. My questions to the Minister are:

1. Given the known history of these types of units, were the couplings properly and adequately tested when the new hoses were installed?

2. Was the pressure limit of the units exceeded prior to the spill on 28 June?

The Hon. DIANA LAIDLAW: In her question the honourable member mentioned the term 'known history'. There are presumptions in those words that I would not wish to be a party to and would wish to be part of the investigation which the Hon. Dorothy Kotz and I have established and which I outlined in this place today. I will pass on to the investigators the honourable member's questions for them to explore. Mobil may also wish to prepare a reply to the honourable member or reply in terms of the procedures of the investigation.

I do not wish to demean the situation, because I have no information on this matter of breakaway couplings. However, I recall accusations made in this place by the honourable member in February last year about practices and procedures of Mobil. They were very inflated—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: No, very inflated accusations when she said in this place that there had been a spill of between 40 000 and 140 000 litres of crude oil. That was a gross exaggeration. At that time, as I stated, the spillage was 10 000 litres. I know from whom the honourable member is receiving her advice, or at least on a past occasion—

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: No, at least on a past occasion. I am not dismissing the advice at all. I think that everything must be uncovered during the investigations. It will be. For that reason, as I said before, the honourable member's concern and information, no matter the source and no matter the truth, will be submitted to the investigators.

SPEED CAMERAS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, Correctional Services and Emergency Services, a question about speed cameras.

Leave granted.

The Hon. J.F. STEFANI: I have been approached by a number of constituents who have complained to me about the way in which the new speed detection devices are being utilised. In particular, they have advised me that such devices are being used between the access road to the O'Halloran Hill shopping centre and Main South Road at O'Halloran Hill. A vehicle fitted with a speed detection device has been placed facing in the wrong direction, possibly on private property and, therefore, without the permission of the proprietor of the property.

On a number of occasions I have also noted a speed detection vehicle, first, parked before the Thebarton Police Barracks in the parklands, hidden under a tree and facing the traffic travelling towards the city and, further, in front of the recessed main entrance gates to the Police Barracks on Port Road. My question is: will the Minister investigate the appropriateness of using speed detection devices in these locations and in such a manner, and the practice of using speed detection devices placed on private property or in inappropriate locations?

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

PORT STANVAC OIL SPILL

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport a question about the oil spill that occurred last week at Port Stanvac.

Leave granted.

The Hon. M.J. ELLIOTT: In her ministerial statement today, the Minister said that the results of both investigations would be referred to the Crown Solicitor's Office for an opinion as to whether a case exists for legal action to be taken under either or both the Pollution of Waters by Oil or Noxious Substances Act 1987 or the Environment Protection Act 1993. Section 26 of the Pollution of Waters by Oil or Noxious Substances Act makes it quite plain that there can be a prosecution in relation to spillages from either vehicles or an apparatus into State waters.

The only defences available under subsection (3) are that the spill resulted from the need to save life; resulted from an act of terrorism or a natural phenomenon of an exceptional and irresistible nature; resulted from carrying out, or attempting to carry out, a direction of the Minister; or was wholly caused by the negligent or unlawful act or omission of another person, not being an employee or agent of the defendant. So, the Act provides that, if a spill occurs, prosecution can take place in any other instance. My questions are:

1. In these circumstances, what role can the Crown Solicitor play in making a determination, because I think that, for the most part, those issues are clear cut?

2. Will the Minister state why a prosecution did not take place in 1996? Was it because one of those four defences existed, or did the Minister simply make a decision not to prosecute?

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: Ultimately the decision had to be made my someone. I want to know what advice was given in relation to a prosecution in 1996. Did or did not one of those four defences exist?

The Hon. DIANA LAIDLAW: I think it is relevant to stress the manner in which the honourable member raised his questions. He said, 'A matter can be prosecuted', and that is right: it can be prosecuted; it is not required to be prosecuted.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: No, I emphasise that, because the honourable member was quite right in referring to the fact that there can be a prosecution, and there is a prosecution if the Crown Solicitor decides that there is a charge to answer. My understanding is that—

The Hon. M.J. Elliott: If a defence exists, there is a charge to be answered.

The Hon. DIANA LAIDLAW: My understanding is that on the last occasion the matter was to be considered under the terms of the Environment Protection Act and the Crown Solicitor advised that there were not grounds to prosecute, and that was the Act that they were considering on that occasion. I will have to get the advice from the Crown Solicitor, because the matter was not referred to me: it was looked at in terms of prosecution under the Environment Protection Act, and that Act is not my responsibility.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Yes, that is right. Under the terms of this Act, I have already indicated that an investigation has been launched and will be conducted within a four week period, the results referred to the Crown Solici-

tor's office; and, as I have said very specifically in my statement, the Crown Solicitor's opinion will be sought on whether a case exists for legal action to be taken.

The Hon. M.J. ELLIOTT: A supplementary question: will the Minister in coming back with the reply identify what defence under the Pollution of Waters by Oil and Noxious Substances Act existed in relation to the 1996 spill and, if there was no defence, why no prosecution occurred?

The Hon. DIANA LAIDLAW: Yes, I will seek that information from the Crown Solicitor, through the Attorney-General, I suspect.

The Hon. K.T. Griffin: Yes, that's right.

The Hon. DIANA LAIDLAW: The Attorney-General will consider the question.

NATIONAL HIGHWAY ONE

In reply to **Hon. CARMEL ZOLLO** (25 May) and answered by letter on 16 June 1999.

The Hon. DIANA LAIDLAW:

1. The final report from Professor Jack McLean was received by Transport SA on 4 June 1999.

2. Transport SA is currently considering the report and will provide a briefing to me by the end of this month.

3. The options of grade separation at the site were considered in the planning stage of the project. Grade separation was not considered to be a viable economic option because of the proximity to Port Wakefield, and the likelihood that it would become redundant whenever a bypass road is built. At-grade options were presented at a stakeholder workshop in early September 1997. The preferred option was then presented at a public display in Port Wakefield in late September 1997. Community consultation occurred during the planning phase and during Professor McLean's investigation.

4. Not applicable.

PLAYFORD COUNCIL

In reply to **Hon. G. WEATHERILL** (2 June) and answered by letter on 29 June 1999.

The Hon. DIANA LAIDLAW: The Minister for Local Government has provided the following information:

Six industrial agreements currently affect the City of Playford, arising from the amalgamation of the City of Munno Para and the City of Elizabeth which came into effect in 1997. Two are the industrial agreements relating to the amalgamation and two have been inherited from each of the two Cities.

The pre-existing industrial agreements all had clauses prohibiting forced redundancies. While the period for which these agreements were envisaged has expired, their terms remain in force until another agreement (or agreements) takes their place.

At the time of the amalgamation it was clearly anticipated by the councils entering into it that it would and should create opportunities for restructuring, that could ultimately affect the work force, and that these developments would require careful and consultative management.

Negotiations are proceeding for a new enterprise agreement for the City. The industrial difficulties experienced recently have centred on pay and job security, and these produced bans and limitations for some months, eventually affecting the negotiations. However, discussions have now resumed both on pay and on a fair approach to compensation for redundancy in the future, should the need arise.

Loss of staff is not a priority for the City. The Minister for Local Government has been advised by the Chief Executive of the City of Playford that the Council values its staff and the service they provide to the community.

BAROSSA ROAD

In reply to **Hon. G. WEATHERILL** (3 June) and answered by letter on 26 June 1999.

The Hon. DIANA LAIDLAW: I assume that the honourable member is referring to the proposed new access road to the central Barossa, Gomersal Road. This road is to be developed to provide an alternative route for freight access to the central Barossa and improve safety on Barossa Valley Way by minimising the number of interactions of different types of road users.

Transport SA is currently looking at routes and options for Gomersal Road and its connections to Barossa Valley Way, Rowland Flat and other important Barossa Valley centres.

Barossa Valley Way is very constrained by the narrow road reserve and the need to, as much as possible, preserve the remnant gum trees which are a major feature of this road. As a result, space for normal length overtaking lanes is not generally available. This lack of space, together with the strong community desire to maintain the visual amenity and tourist character of the road, means that Transport SA will investigate provision of short overtaking lanes or slow vehicle turnouts and widening.

This year, on the Barossa Valley Way, Transport SA completed 7 km of seal widening, and junction and alignment improvements to the Railway Crossing east of Gawler. Approximately $1.8 million was spent on these projects. Other widening was also undertaken on Nuriootpa-Angaston and Sandy Creek-Williamstown Roads. Prior to this, other junction improvements at Sandy Creek and Krondorf Road were completed in 1997-98. A Road Safety Audit has been completed for this road and further planning investigations are proposed to identify future improvements for the section of Barossa Valley Way between Sandy Creek and Lyndoch in line with the recommendations of the Audit and the philosophy of the Barossa Transport Strategy. Funding is available in 1999/2000 to improve the safety of winery accesses on Barossa Valley Way ($231 000) and for widening work on Sandy Creek-Williamstown Road ($128 000).

The need for overtaking lanes on Gomersal Road will depend on the alignment of the road and the volume and mix of traffic. This road is a local road under the care and control of the District Council of Kapunda and Light. State funding is being provided towards its upgrade in recognition of the economic development in the area and its contribution to the State economy.

ALEXANDER AVENUE

In reply to **Hon. R.R. ROBERTS** (1 June) and answered by letter on 19 June 1999.

The Hon. DIANA LAIDLAW: Transport SA advises that the section of road in question comes under the care, control and management of the Town of Gawler. However, for consistency across the State, I have delegated to Transport SA responsibility for approving all speed zones, after consultation with Council.

All other 60 km/h roads cited by the honourable member's constituent have been investigated by Transport SA and are considered to contain one or more of the following factors to support the application of a 60 km/h limit—

- Balanced residential development on both sides of the road or continuous development on one side of the road. Most of this development is supported with kerbing and street lighting giving the typical appearance of a built up area.
- Short sections of open space (between development) where it would be impractical to introduce a different speed zone.
- A school zone where children can be expected to cross.

A review of the speed zones along Alexander Avenue has confirmed that beyond the 60 km/h limit near the school, housing is not continuous and occurs on one side of the road only, presenting a semi-rural appearance to drivers.

While this development on its own is not considered sufficient to justify lowering the 80 km/h limit, Transport SA is concerned for the safety of students seen walking along the edge of Alexander Avenue, due to absence of a footpath.

In view of Transport SA's concern for the safety of these children, I am pleased to advise that arrangements will be made, subject to Council's agreement, for an extension of the 60 km/h limit on Alexander Avenue from Trinity College to Bentley Road (approximately 600 metres).

For the honourable member's interest, I am aware that Transport SA has also requested Gawler Council to address the issue of providing a permanent footpath, for the added safety of these children who walk along this road to Trinity College.

COUNTRY DRIVING

In reply to **Hon. J.S.L. DAWKINS:** (10 June) and answered by letter on 26 June 1999.

The Hon. DIANA LAIDLAW: The *Country Driving Hints: Your Guide to Safe Travel* pamphlet was distributed widely throughout South Australia as part of the State Government's Easter 1999 Rural Road Safety Campaign. Approximately 60 000 pamphlets were distributed by way of the following networks—

- SA Travel Centre
- Primary Industries and Resources SA (PIRSA)
- All Royal Automobile Association registered country motels, bed and breakfasts, caravan parks and hotels
- All country garages and Motor Trades Association fuel outlets
- Rural police stations
- Transport SA Customer Service Centres (metropolitan and rural)
- Royal Automobile Association branches and district outlets

At the same time, approximately 100 000 anti driver fatigue smart cards, *Drowsy Drivers Die*, were also distributed via the same networks.

WATER LICENCES

In reply to **Hon. M.J. ELLIOTT** (24 March) and answered by letter on 19 June 1999.

The Hon. DIANA LAIDLAW: The Minister for Environment and Heritage has provided the following information:

Restrictions on the use of groundwater within 9 Hundreds in the Tintinara/Coonalpyn area were put into effect from 13 January 1999. The action was taken as a result of increasing pressures on the resource. The taking of groundwater for other than stock and domestic use, fighting fires or for reticulated supplies of potable water to townships in the area, is prohibited during the 12 months from 13 January 1999 (being the date the Notice of Restriction had effect) unless authorised in writing in accordance with the terms of the Notice and the policy guidelines approved by the Minister for Environment and Heritage. These policy guidelines provide for a written authorisation to take water to be granted in the circumstances set out in the guidelines. To paraphrase these guidelines, the circumstances are where there is evidence of existing use, a demonstrated prior financial commitment, or evidence of a pre-existing proposal or plan for the use of groundwater.

A land use survey to determine existing use was undertaken over 2 weeks from 27 February and 56 existing users were identified. Written submissions were invited from anyone who believed that they may be entitled to be granted an authorisation to take water in accordance with the provisions of the policy guidelines. These submissions were received until 30 March 1999, however it was never intended that all assessments be held in abeyance until the expiry of that date.

Work is advanced in both the assessment of existing users identified in the survey and submissions received with the view to the timely issuing of authorisations to those who meet the policy guidelines. These submissions are being evaluated against the policy guidelines and the Criteria For The Issue Of Approvals For The Taking Of Water In The Tintinara-Coonalpyn Restricted Area approved by the Minister for Environment and Heritage. The authorisations will be issued for the use of water in the period of the restriction under Section 16 and it is not a water allocation under the *Water Resources Act 1997* (which only applies to prescribed areas).

Kangaringa Proprietors notified the Department for Environment, Heritage and Aboriginal Affairs in a letter of 14 December 1998 of its plan to develop an olive grove in the Hundred of Makin and of its option to purchase land for this purpose subject to conditions being met by March 1999. This included a development application to be considered by the Tatiara District Council. The proposal was assessed in terms of the policy guidelines (and criteria) approved by the Minister for Environment and Heritage and a letter of authority was issued for the term of the restriction to the extent of existing irrigation on the property and for irrigation clearly demonstrated in a prior plan. The authorisation requires the developer to carry out further investigations on the likely hydrogeological impact of current and proposed developments.

This case is not an exceptional case and has been assessed against the policy guidelines (and criteria) approved by the Minister for Environment and Heritage as will all other submissions. Not to consider the case in a timely manner would have caused unnecessary interference in a planned business transaction when the ultimate outcome in terms of granting an authorisation to take water in accordance with the policy guidelines would have been unchanged.

Officers within the Department have been given delegated authority to assess and grant written approvals for the taking of water in accordance with policy guidelines. The letter of authorisation issued to Kangaringa Proprietors was assessed in accordance with the approved policy guidelines (and criteria) and the terms of the delegation. As the matter was dealt with under delegated authority, the Minister for Environment and Heritage was neither aware of this authorisation nor involved in the assessment in any way.

The assessment of other cases in the Tintinara/Coonalpyn area is well advanced and, where they conform with the policy guidelines, authorisation to take water during the period of restriction will be issued without reference to the Minister for Environment and Heritage. Any case which does not fall within the policy guidelines will be referred to the Minister for Environment and Heritage for consideration (as is required by the policy itself) and the Minister for Environment and Heritage has approved the formation of an advisory group to assist her in the assessment of these applications.

MOUNT BARKER FREEWAY TUNNEL

In reply to **Hon. T.G. CAMERON** (1 June) and answered by letter on 16 June 1999.

The Hon. DIANA LAIDLAW: There are major differences between the Austrian and Adelaide-Crafers Highway tunnels. The Adelaide-Crafers Highway tunnels are only 500 metres in length and are considerably wider than the Austrian tunnels. The Austrian tunnels were built some 20 to 30 years ago while the Adelaide-Crafers Highway tunnels are still under construction and therefore contain the latest technology and designs.

Many features have been built into the Adelaide-Crafers Highway tunnels to enable emergency services and Transport SA to react quickly if there is an incident.

The state-of-the-art surveillance and incident detection system will ensure instantaneous incident alert. Sophisticated cameras will monitor the tunnels 24 hours a day and will be linked by fibre optic cable to Transport SA's traffic monitoring centre at Norwood. If there is an incident, an alarm is automatically sent to the centre and also Police and emergency services.

These devices for early detection and fast response will ensure that any fire is extinguished or contained quickly.

There will also be emergency telephones, break-glass alarms, portable fire extinguishers and hose reels in cabinets along the tunnel walls. The South Australian Fire Service (SAFS) was involved in the design of the features in the tunnels and are therefore familiar with the fire protection services. The SAFS will also attend all fire and emergency events.

A fire test will also be conducted in the tunnels, prior to the opening, to ensure that all systems and procedures work.

In addition to the ability to respond instantaneously to an incident, the tunnels are designed for quick egress. There are three emergency pedestrian cross passages, so that people can leave the congested tunnel and go to the safety of the other tunnel. The cross passages have pressurised doors which can also be easily accessed by people with disabilities. As the tunnels are very short, people will be able to evacuate very quickly and will be no further than 60 metres from one of the emergency passages or exits.

Also located in the tunnels are reversible exhaust fans. These fans work on an automatically activated system so that when the pollution/fumes reach a certain point, the fans automatically switch on to blow the contaminated air out and/or push clean air into the tunnels.

SPEED CAMERAS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General questions about the new high-tech speed cameras.

Leave granted.

The Hon. T.G. CAMERON: I am just following up on the question asked by the Hon. Julian Stefani who, like myself, keeps a close eye on speed cameras. The police have recently introduced new high-tech speed cameras that are supposed to be far more accurate and reliable than the old speed cameras. The new cameras will be able to differentiate between two or more cars, pick out the speeding vehicle and also, with digital technology, see vehicle registration numbers much more clearly.

The Hon. Diana Laidlaw: You voted for the introduction of these.

The Hon. T.G. CAMERON: I don't think I was in the Council when they came in, as the Hon. Di Laidlaw will recall.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: I can recall some conversations as Party Secretary with the Police Minister about the damage they were doing to us in our research. That is something you people might want to look at, too.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: I was not a member of the Council.

The PRESIDENT: Order! Interjections are out of order. The Hon. Mr Cameron will return to his explanation.

The Hon. T.G. CAMERON: Thank you for your protection from the honourable member, Mr President. Last year more than 100 000 speed camera photos were discarded as a result of unclear photos or because two or more cars were in the speed camera photos. The new cameras will largely solve these problems, and it has been estimated that the new speed cameras could raise up to an additional $10 million in fines. The media have recently reported a number of highly controversial cases where people have been sent speed camera fines in dubious circumstances. Over the past few weeks my office has received a number of telephone calls from constituents who are now concerned over the reliability and accuracy of the new cameras. My questions to the Attorney-General are:

1. Given that the new cameras have been in the possession of the Police Security Services Division for some time now and have undertaken extensive trials, why has it taken so long for the new cameras to come on line?

2. Are the police experiencing any teething problems with the new cameras?

3. Have any interstate or overseas police forces experienced problems with similar high-tech cameras?

4. Can the Minister assure members of the public that the new speed cameras are fully operational, are 100 per cent reliable and have the Minister's complete confidence?

The Hon. K.T. GRIFFIN: My colleague the Minister for Transport has indicated to me that a Bill introduced in this Council at the end of last year and passed this year dealt with the issue of proof of accuracy of devices, particularly in preparation for the introduction of the new speed cameras, and that was supported by all members, including the Hon. Mr Cameron. The honourable member raises some interesting questions. They will have to be referred to my colleague in another place; I will do that and bring back replies.

DISABILITY SERVICES

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Disability Services and the Ageing a question about accommodation services for disabled and older people.

Leave granted.

The Hon. J.S.L. DAWKINS: I recently noted a letter to the editor of the *Advertiser* from Ms Lillean Mattner of Loxton. This letter commented on the availability of accommodation services for adults with an intellectual disability in country areas and particularly the Riverland. The letter also raised the issue of ageing parents caring for their middle-aged sons or daughters who suffer from such disabilities. Will the Minister indicate what services are available in the Riverland for people with disabilities and for the ageing?

The Hon. R.D. LAWSON: I thank the honourable member for his question; I am aware of his close interest in matters pertaining to regional South Australia and particularly the Riverland. I did see the letter from Ms Mattner in the *Advertiser*, where she highlighted an important issue, namely, accommodation services for adults with disabilities and also for older persons. It is worth saying that as a Government we place a high priority on the provision of services of this kind. I was recently in the Riverland to launch a new carer network. One of the ways we are supporting the families and carers of those with disabilities and also carers for the frail elderly is to establish respite services and carer support networks.

The Carers Association of South Australia has been commissioned to establish a carer network throughout the country areas, and the last of those was opened in Loxton by me earlier last month. One way in which we can support people who are caring for those with disabilities and the elderly is to provide respite. The provision of appropriate respite care, of a break, is a very good way of ensuring that people can stay at home for as long as possible.

In addition, we are establishing accommodation services as a form of last resort. Respite beds are available in country hospitals and, in particular, in the Riverland last year I was able to authorise an additional $90 000 in recurrent funding to the Riverland Regional Health Service to provide services to improve accessibility to dementia services and carer support. They specifically targeted Waikerie, Morgan and Blanchetown. In the latest HACC round for 1998-99, an additional $3.8 million went into the program, and a number of services in regional and rural South Australia benefited by the provision of additional carer support and respite.

There are also things such as community transport networks, which are very important for people with disabilities because, if you provide appropriate transport, it is possible for people to stay at home. In April 1998, a community transport network was launched at Barmera—and I know that the honourable member was present at that launch—and I recognise the contribution of the Passenger Transport Board, which has been very prominent in providing these services.

Another program of which we are very proud is the Moving On program, which enables school leavers with intellectual disabilities to access recreational and developmental programs. The advantage of these programs is that these young people are taught living skills and skills in independence. I think, in the future, we will see many more people with disabilities actually living unsupported in the community because they have been given the appropriate life skills training. Moving On also provides a level of respite for carers and families. I can assure the honourable member that the needs of the community are well recognised by this Government, and provision to meet the need is being made not only in the Riverland but also elsewhere.

The Hon. CARMEL ZOLLO: I have a supplementary question. Will the Minister advise how many intellectually disabled people from regional South Australia are on the accommodation list?

The Hon. R.D. LAWSON: I will take the question on notice and bring back a precise reply.

LATEX FREE PRODUCTS

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

The Hon. R.D. LAWSON: The honourable member asked if the Government has recognised the problems of latex content in needles and syringes and if it is aware of the issues surrounding the latex content of needles and syringes.

The Government has recognised that risks may be associated with latex allergies. The team of officers that undertook the process to

develop the current contract for the provision of needles and syringes took these risks into account while negotiating that contract. As a result, the contract with this supplier calls for latex-free needles and syringes.

The honourable member asks why the specifications for the tender did not include latex free products. It appears that she is referring to the Group 65 request for proposal of April 1997 which was a request for proposal and not a tender call in the traditional sense. It did not contain detailed specifications. The purpose of the request for proposal was to build a better understanding of the market and to encourage suppliers to identify innovations or available new technologies that might deliver better value for money.

The inclusion in a request for proposal of detailed specifications might have worked to prevent innovative alternative technologies and methodologies being proposed. The product specifications were applied during the negotiation process with the short listed respondents. The issue of latex content was one of the issues associated with product specification. It was considered during the negotiation stage and as a result, the final contract delivers latex free needles and syringes.

BANK CHARGES

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Treasurer a question about bank charges, fees and interest rates.

Leave granted.

The Hon. A.J. REDFORD: Over recent months, indeed for some considerable time, I have noted in my dealings with constituents throughout South Australia that there has been substantial criticism of the banking industry and a number of its practices. Indeed, I noticed, as I travelled around to various AGMs, particularly of Liberal Party branches, that the first motion on the books was to transfer all funds from banks to credit unions because of the nature of the charges. I have also received suggestions that South Australia has higher interest rates and charges and greater bank scrutiny of businesses than have their interstate competitors. I have also been told that rural and regional South Australia has a view that banks do not understand the peculiar nature of their businesses and enterprises and do not take them into account when considering proposals.

The other issue that has been raised relates to the area of competition and comparative interest charges and other charges, in other words, the real interest charges and the marketing practices of the banks in relation to those. I have been told on many occasions that it is extremely difficult for the ordinary consumer to compare one bank product with another to see which one is cheaper. Indeed, it has been suggested to me that these are the marketing practices of snake oil salesmen as opposed to those of respected and privileged financial institutions of this nation. I wrote to all the banks to raise some of these issues, and received responses from the ANZ, the Commonwealth Bank (plus a pile of brochures), BankSA, Westpac, National Bank and the Adelaide Bank. Indeed, I note that the local Adelaide Bank received the best customer satisfaction statement from a recent Roy Morgan research poll. I have recently had drawn to my attention a press release from the Australian Consumers Association which states:

> 'The Australian Consumers Association today supported moves to improve the information consumers are given about home loans and called on States to back the introduction of a mandatory comparison rate. At the moment, consumers are shopping for home loans with blinkers. An interest rate may look attractive in an ad, but it's only part of the picture. There are also start up costs and ongoing fees and charges that mean what you'll pay is much higher. A comparison rate used in all advertising would mean consumers would see the real cost of each loan,' said Kate Beddoe, Finance Policy Officer for ACA.

Following that, the Financial Services Consumer Policy Centre issued a press release stating:

> The Financial Services Consumer Policy Centre supports calls. . . for a new 'truth in lending' regime. The proposal will require financial institutions to display annual average percentage rates (AAPR) which include fees and charges.

They called for the AAPR to be displayed prominently in all advertising, stated that the AAPR should initially appear on all home lending but gradually be extended to other personal lending, and, finally, that Government, business and consumer representatives should be involved in the development of the formula. Indeed, on 24 June Senator Stephen Conroy, the Federal shadow Minister for Financial Services and Regulation, said:

> The ACA and the Consumer Policy Centre support truth in lending for home loans. The Treasurers and Ministers for Fair Trading of Queensland, New South Wales and Tasmania are supportive of the principle of truth in lending. . .

Indeed, in my opinion, that reform is well overdue. In the light of that, my questions to the Treasurer are:

1. What is the South Australian response in relation to the calls for the process or procedure where the true lending rates of banks are revealed?

2. Has the Treasurer been approached by anyone on behalf of the New South Wales, Queensland or Tasmanian Government with a view to establishing a legislative regime to have true lending rates advertised?

3. Would the Treasurer consider ensuring that this issue is put on the agenda at the next COAG meeting?

The Hon. R.I. LUCAS: Before responding in terms of what might or might not be the Government's position, I might speak as a borrower and ordinary South Australian. Clearly, I would have thought that the more information that can be made available to home borrowers the better it might be. I guess, speaking as an individual, that I would have some sympathy, but at the outset, as Treasurer—and as my colleague the Attorney-General has indicated—this is an issue obviously that has been referred to Treasurers and Ministers for Fair Trading—and in South Australia's case the Minister for Consumer Affairs—for advice and comment. I would want to consult with the Attorney-General and take advice from our respective departments in terms of this particular call from the Australian Consumers Association and others. So, that would be the Government's response as opposed to my personal response which, as I said, might have a little degree of sympathy, subject to considering whether there are any particular problems with this proposal.

As to whether I have been approached, I cannot recall an approach to my office in recent times. I say that cautiously as I have a vague recollection a year or so ago that this or a similar issue may have been raised with my office. I would need to consult with the Attorney-General to see whether or not as Minister for Consumer Affairs these issues have been raised with him. I suspect that probably if there is to be a Government response at this stage it is not likely to be an issue listed for COAG, which has an agenda that is pretty full at the moment. It is more likely to be an issue that is pursued by Ministers for Consumer Affairs and perhaps Treasurers, although Treasurers at this stage do not have an annual ministerial council at which they get together. It may be an issue that Treasurers take up in terms of correspondence or discussion from time to time. I will take up the issues with the Attorney-General and we will seek advice and bring back a more fulsome reply when we are properly briefed.

GAMBLING, EFTPOS AND ATM FACILITIES

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Treasurer a question about hotels and EFTPOS and ATM facilities.

Leave granted.

The Hon. NICK XENOPHON: The Queensland Government's Treasurer, the Hon. David Hamill, in an interview with Radio Station 4QR on 2 July this year, in discussing a review of that State's gambling legislation, referred to 'widespread concern that the easy access to cash through ATMs is a negative, particularly if gaming machines are available in close proximity.' That is seen by many in the community as really opening up the potential for major problems. Following the remarks of the Queensland Treasurer, my questions to the Treasurer are:

1. What studies has the Government carried out on the link between the proximity of EFTPOS and ATM facilities to a gaming venue and the levels of problem gambling?

2. What is the proportion of hotels with poker machines that have, first, ATM facilities and, secondly, EFTPOS facilities?

3. What is the proportion of hotels without poker machines that have, first, ATM facilities and, secondly, EFTPOS facilities?

The Hon. R.I. LUCAS: I have not seen the reported comments of my offsider in Queensland, Treasurer David Hamill. I will certainly take advice on his comments. Given the importance of the service industry to tourism and hospitality in Queensland, I would be surprised. I have been surprised in the past about what comes out of the Queensland political system and it may well be that I will again be surprised in the future. Nevertheless, I would be surprised if Queensland went down the path of removing EFTPOS in particular from hotels that have gaming machines, given the tremendous significance of EFTPOS facilities in hotels and tourism and hospitality establishments not only in Queensland but throughout the world. I will take advice and, if need be, perhaps contact David Hamill's office to find out whether he has been fairly reported.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: I am happy to see that, but sometimes transcripts do not always provide the context within which a statement is made. I have no doubt the Hon. Mr Xenophon has quoted accurately from the transcript of the media report, but nevertheless to give David Hamill his due we would like to check the context in which he made the statement.

In relation to the honourable member's further questions about the South Australian situation, I am not aware of any separate report that has been done on the issue of EFTPOS. A number of the reports dating from the John Hill report and others may well have commented on the issues of the time, but I do not think that anyone has commissioned a separate EFTPOS in hotels and gaming machines type report, if that is the substance of the honourable member's question. If that was the substance of the question, my answer is that I am not aware of it and I would be surprised if one had been done. This issue has been considered and reviewed in a number of inquiries, and comment has been made or decisions taken. I know some years ago when the Liberal Government was considering this issue we were provided with some information and a variety of views from various members about its impact, but again no-one had a separate report on this issue, but some information was provided.

The Government Party room or individual members made their own judgment according to conscience about that, and that is the current situation in South Australia. I am happy to take the detailed questions about the percentages on notice and try to bring back a reply.

ADELAIDE REMAND CENTRE

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Justice a question about the Adelaide Remand Centre.

Leave granted.

The Hon. IAN GILFILLAN: Today's copy of the *City Messenger* quotes extensively from a Supreme Court judgment of His Honour Justice Robin Millhouse. Indirectly quoting the judge, it states that, when the Adelaide Remand Centre was opened in 1986, it was for the purpose of housing prisoners who were on remand, and by definition that means prisoners who have not been convicted—that is, those who are awaiting trial and are therefore presumed, by our legal system, to be innocent. However, these people are being housed alongside convicted prisoners: sometimes convicted prisoners and remandees are housed in the same cell. This is occurring for periods of time which are not brief.

His Honour was delivering judgment in a case involving a convicted prisoner, Robert Wayne Collins. Collins had been in the Adelaide Remand Centre for two years when, in 1997, he applied to have a cell alone, not shared with a fellow inmate. His application was rejected, but in rejecting it Justice Millhouse's view (and I quote the Messenger report of his judgment) was as follows:

> . . . this treatment of accused persons, not yet convicted, makes a mockery of one of the cornerstones of criminal law—the presumption of innocence.

Doubling up two prisoners to a cell, especially when one is a convict and one is not, was 'undesirable, even wrong'. He said:

> There is a reason, I suggest, for real concern about the effects of 'doubling up' at the Remand Centre:
> · an increase in the assaults on staff;
> · at a time when non-smoking is encouraged, non-smokers are made to share with smokers or are punished if they refuse;
> · any rape or assault of any person is absolutely unacceptable.

The report continues:

> He [Justice Millhouse] said it was a breach of the standard minimum rules for the treatment of prisoners under the United Nations congress on the prevention of crime and the treatment of prisoners.

I believe that the judge, and the Messenger report, is slightly in error and that the document to which reference was made was the United Nations Standard Minimum Rules for the Treatment of Prisoners which, at article 8, states:

> The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus...
> (b) Untried prisoners shall be kept separate from convicted prisoners;

The judge also rejected the view that the doubling up of inmates in this fashion was merely a temporary measure because he observed that in 1996 renovations were made to increase the capacity to double up in cells. My questions are as follows:

1. Does the Attorney-General agree that this practice is in contravention of the United Nations standard rules to which I have referred?

2. Does the Government share Justice Millhouse's view that this practice is contrary to a presumption of innocence?

3. Why are convicted prisoners housed at all in the Adelaide Remand Centre?

4. What, if any, plans does the Government have to alleviate this situation?

The Hon. K.T. GRIFFIN: I will take the questions on notice and bring back a reply. They will be referred to the Minister for Police, Correctional Services and Emergency Services, because these matters are directly his responsibility.

The Hon. IAN GILFILLAN: As a supplementary question, does not the Attorney agree that, as Minister for Justice, he should determine whether there is compliance with the United Nations Standard Minimum Rules for the Treatment of Prisoners, as I referred to in the question?

The Hon. K.T. GRIFFIN: Not necessarily. United Nations decisions are not enforceable under domestic law. They are matters which obviously we all take into consideration but they are certainly not part of South Australia's law. As Minister for Justice, I am happy to answer questions about those and other issues, but they are issues upon which I will need to take some advice.

CRIMINAL LAW SENTENCING

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Attorney-General a question about criminal law sentencing.

Leave granted.

The Hon. CARMEL ZOLLO: In his regular spot on Jeremy Cordeaux's Radio 5DN program, on Friday 25 June the Premier said that people who sell drugs should always be sentenced to a maximum penalty of life and that a life sentence should mean the term of the offender's natural life. The Premier said:

> These traffickers are supposed to get life—life meaning life, not discounted for good behaviour or a range of other things.

Does the Attorney support his Premier on this and does the Premier's statement represent Government policy? If so, when will the Attorney introduce amendments to the Criminal Law (Sentencing) Act to compel judges to impose particular terms of imprisonment for drug trafficking and to abolish parole for these offences?

The Hon. K.T. GRIFFIN: The honourable member ought to look more carefully at the whole of the transcript to get an understanding of the context in which the Premier made remarks about this issue. If she looks carefully at it, she will see that he indicated that the prosecution process was independent of Government and that he did take that into consideration when making his statements on air.

So many things are happening that are good as part of the policy of the Government to deal with these issues. The Premier made statements in the context of the budget and subsequently about the way in which the Government wishes to deal with those who might be dependent upon drugs. He floated the probability of a drug court trial in this State—and that is something that I think both sides of the Council should support—as well as a variety of other strategies to deal with police diversion, drug assessment and aid panels, education, and a variety of other programs that might properly support people who are dependent upon drugs to enable them to kick the habit, if they wish, and to make a useful contribution in the lives that they lead—that is, a contribution to the society in which they live and to those with whom they have close association and relationships.

So, there are a lot of positive things happening. On the crime law and order front, the Government has a comprehensive program about the way in which we deal with a variety of criminal behaviours, including innovative programs that relate to crime prevention. One of the difficulties we have in this State is that the previous Labor Government was particularly strong in supporting innovative programs to ensure that as much as it was possible to do so the causes of crime were addressed.

Mr Rann, the now Leader of the Opposition, was part of the Government that established, in the early stages, the Together Against Crime program. It was launched with very significant fanfare, and I commended the Attorney-General of the day, the Hon. Mr Sumner, on that. But going from a comprehensive program that was innovative for its time, we now have Mr Rann, who is (I suppose you could call him) a hit and run man: he hits in there, he knocks the issue that he thinks might get a bit of superficial support in the media, and then he runs. He never has a comprehensive program, plan or strategy to deal with a wide range of issues affecting our criminal justice system or the citizens of South Australia.

So, going from a period, now admittedly fading into the past, when there was some enlightenment and innovation, we now have the typical reaction of hit this issue—whether it is home invasions, burglaries, drugs or some other issue—and then run.

The Hon. A.J. Redford: Knives.

The Hon. K.T. GRIFFIN: Yes, knives. Even when the Parliament does something that is realistic and reasonable to deal with the issue of knives, Mr Rann still cannot leave it alone.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: If Mr Rann wants to bring in legislation for capital punishment, he is entitled to do it. I suppose it might be typical of the man that he will hit on that issue because he knows that it will grip the imagination of a few people in the community but will not be supported at large. I bet that on the other side of the Council there will not be too many members—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: —if any, who will support Mr Rann's Bill to bring back capital punishment. The point I want to make is that—

The Hon. Carmel Zollo interjecting:

The Hon. K.T. GRIFFIN: Well, I'm not. It was an interjection from the Hon. Mr Holloway. He said, 'The Leader of the Opposition might be tempted to bring in a Bill to bring back capital punishment; why don't we test it?'

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: Oh, rubbish!

The Hon. P. Holloway: That's what you were saying when you were in Opposition.

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: We were never saying, 'Bring back capital punishment'—and the honourable member knows that. I come back to my central point. The Opposition has no coherent, innovative program to deal with issues—

The Hon. Diana Laidlaw: No policies whatsoever.

The Hon. K.T. GRIFFIN: It has none about any issue for that matter, but more particularly the issue regarding which—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: —the Hon. Carmel Zollo raised the question, and that is crime, law and order, and safety. The Government has a good record in relation to a wide range of issues which are innovative, progressive and creative and which involve the community in dealing with these issues, as well as focusing upon catching the offenders—

The Hon. T.G. Cameron: And you reappointed the DPP.

The Hon. K.T. GRIFFIN: Do you complain about that?

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The clock is running down.

The Hon. K.T. GRIFFIN: Mr Rann, 'the hit-and-run man', does not have a policy. He comes in, gets some publicity and then runs.

FEDERAL COURTS (STATE JURISDICTION) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to provide that certain decisions of the Federal Court of Australia or the Family Court of Australia have effect as decisions of the Supreme Court and to make other provision relating to certain matters relating to the jurisdiction of those courts to amend the Competition Policy Reform (South Australia) Act 1996, and for other purposes. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

This Bill is introduced in response to the recent decision of the High Court in relation to cross vesting. The Bill provides that certain decisions of the Federal Court of Australia and the Family Court of Australia have effect as decisions of the Supreme Court of South Australia. It also provides for the transfer of current proceedings in the Federal Court in relation to State matters to the Supreme Court and it enables State courts to deal with matters that arise under applied law schemes that would otherwise be dealt with by a federal court.

On 17 June 1999, the High Court handed down its decision in the cases of *Ex parte Amman & Gould, Ex parte Mc Nally, Ex parte Darvall*, and *Spinks v Prentice.* These cases considered the validity of the cross vesting provisions of the Corporations Law and the general cross vesting legislation. The majority of the High Court held that the States are not able to confer State jurisdiction on federal courts and that the Commonwealth is not able to confer or consent to the conferral of State jurisdiction on federal courts. This decision is consistent with the majority's view that the conferral of such jurisdiction is not permitted by Chapter III of the Commonwealth *Constitution.*

The cross vesting scheme was enacted in 1987. The *Jurisdiction of Courts (Cross vesting) Act 1987* established a system of cross vesting of jurisdiction between federal, State and Territory Courts. The essence of the scheme was that State and Territory Supreme Courts were vested with civil jurisdiction of the federal courts and that federal courts were vested with the full jurisdiction of the State and Territory Supreme Courts.

The reasons for the scheme were that litigants were being put to expense as a result of uncertainties as to the jurisdiction limits of federal, State and Territory courts and because of the lack of power in the courts to ensure that proceedings, that were instituted in different courts but which ought to have been tried together, were being tried in one court.

In addition to the general cross vesting legislation, a number of national schemes have been developed where a State Act purports to confer jurisdiction on a federal court. The jurisdiction of the Federal Court under the Corporations Law is reliant on cross vesting arrangements. Some other Commonwealth-State cooperative schemes apply certain federal laws as State law and also confer jurisdiction on the Federal Court. These schemes include the agriculture and veterinary scheme, the competition policy scheme, the gas pipeline scheme and the National Crime Authority scheme.

The High Court decision has significant implications for the cross vesting schemes and for the applied law schemes. The effect of the decision is to invalidate decisions previously made by the Federal Court and the Family Court relying on the cross vesting arrangements and to prevent the further exercise of such jurisdiction by those courts. The decision will not affect judgments made by State and Territory Supreme Courts exercising jurisdiction conferred by Commonwealth laws or the laws of other States and Territories.

This Bill has been developed to protect the decisions made by the Federal Court under those schemes and to deal with cases currently before the Courts. The Bill has been prepared through the Standing Committee of Attorneys General, in conjunction with the Special Committee of Solicitors-General and the Parliamentary Counsel's Committee, as a model which all States will follow. The Bill will validate ineffective decisions, allow for matters which involve State law to be transferred from the Federal Court and the Family Court to the State's Supreme Court and ensure the State Courts can deal with certain matters previously dealt with by the Federal Court.

Clause 6 of the Bill declares that the rights and liabilities of persons under an ineffective judgment of the Federal Court or Family Court are the same as if the judgment had been a valid judgment given by the Supreme Court. Clause 4 defines an ineffective judgement to be a judgment of a federal court in a State matter already given or recorded in the purported exercise of jurisdiction conferred by a State act. The definition applies to judgments of a federal court affirmed, reversed or varied following an appeal in the federal court concerned.

Clause 7 of the Bill specifically provides that rights and liabilities conferred, imposed or affected by Clause 6 are exercisable and enforceable as if they were rights and liabilities under a judgment of the Supreme Court. Similarly, Clause 8 provides that any acts or omission in relation to such rights and liabilities are taken to have the same effect and consequence as if occurring under a judgement of the Supreme Court. By virtue of Clause 10, the Supreme Court is also given power to vary or otherwise deal with any such rights and liabilities.

Clause 11 provides a mechanism for the transfer to the Supreme Court of current proceedings in Federal Courts relating to State matters where a federal court determines that it has no jurisdiction to hear the State matters. A person who is a party to such a matter may apply to the Supreme Court for an order that the proceeding be treated a proceeding in the Supreme Court and the Supreme Court can make such an order. If such an order is made, the proceeding becomes a proceeding in the Supreme Court.

In addition, the Schedule to the Bill amends the *Competition Policy Reform (South Australia) Act 1996* by removing section 22. Section 22 provides that State Courts do not have jurisdiction in relation to matters under the Competition Code. The removal of this restriction will allow for State courts to deal with matters that arise under the code that would otherwise have to be dealt with by the Federal Court.

Consideration is currently being given to the need for further consequential amendments to the legislation dealing with national cross-vesting schemes. The Government may move amendments in the Committee stages.

The High Court's decision could have significant consequences for State courts in terms of costs and resources. There will be a re-direction of work to State courts as State Courts will have to deal with cases that previously could have been heard in the Federal or Family Courts under the cross vesting schemes. For example, matters under the Corporations Law will need to be commenced in, or transferred to the Supreme Court.

In addition to the development of this model legislation, the Standing Committee of Attorneys-General is also considering the implications of the High Court's decision with a view to finding a long term alternative to the arrangements affected by the decision.

I commend this Bill to honourable members.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause defines certain words and expressions used in the measure.

Clause 4: Meaning of ineffective judgment

In short, the expression 'ineffective judgment' is defined as a judgment of a federal court in a State matter already given in the purported exercise of jurisdiction conferred by a State Act. The definition will apply to judgments of a federal court as affirmed, reversed or varied following an appeal in the federal court concerned. The definition will extend to judgments substituted by the High Court on appeal, as these judgments are made in lieu of judgments of the federal court concerned.

Clause 5: Act to bind Crown

This clause provides that the measure binds the Crown in all its capacities.

PART 2
RIGHTS AND LIABILITIES

Clause 6: Rights and liabilities declared in certain cases

This clause declares that all rights and liabilities are to be the same as if each ineffective judgment had been given by the Supreme Court, either as constituted by a single Judge or as the Full Court, as appropriate.

Clause 7: Effect of declared rights and liabilities

This clause specifically provides that such rights and liabilities are exercisable and enforceable as if they were rights and liabilities under judgments of the Supreme Court.

Clause 8: Effect of things done or omitted to be done under or in relation to rights and liabilities

This clause specifically provides that any act or omission done under or in relation to such rights and liabilities have the same effect and consequences as if they were done under or in relation to rights and liabilities under judgments of the Supreme Court.

Clause 9: Section 6 regarded as having ceased to have effect in certain cases

This clause provides that clause 6 does not apply to a judgment that was replaced by a later judgment of a federal court.

Clause 10: Powers of Supreme Court in relation to declared rights and liabilities

This clause specifically empowers the Supreme Court to vary or otherwise deal with any such rights and liabilities.

Clause 11: Certain proceedings may be treated as proceedings in Supreme Court

This clause provides a mechanism for current proceedings before a federal court in relation to State matters to be transferred to the Supreme Court.

Clause 12: Proceedings for contempt

This clause specifically provides that interference with any such rights and liabilities can be dealt with as contempt of an order of the Supreme Court.

Clause 13: Evidentiary

This clause enables federal court records to be produced to show the existence, nature and extent of any such rights and liabilities.

Clause 14: Act not to apply to certain judgments

This clause provides that the measure does not apply to judgments already declared invalid. quashed or overruled by a federal court, otherwise than on the ground that the court had no jurisdiction.

PART 3
GENERAL

Clause 15: Regulations

This clause provides general regulation making power.

SCHEDULE

Consequential Amendment

The Schedule repeals section 22 of the *Competition Policy Reform (South Australia) Act 1996*. That section provides that State courts do not have jurisdiction with respect to matters arising under the Competition Code. That section is repealed because it is intended that the State courts will be able to exercise that jurisdiction in the future, following the High Court's decision that State jurisdiction cannot be conferred on federal courts.

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

AUSTRALASIA RAILWAY (THIRD PARTY ACCESS) BILL

Adjourned debate on second reading.

(Continued from 26 May. Page 1206.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. This Bill sets up a process by which third parties can obtain access to operate services on the Tarcoola to Darwin railway when they have been unable to get that access through usual business negotiations. This is part of the process of getting the Alice-Darwin railway up and running within the framework of the Federal Government's national competition policy, which certainly is something the Opposition supports most strongly. Although it is nothing to do with the Bill, I make the observation that we would very much like the Federal Government to commit more funding to this area.

The Bill provides certainty to the bidding consortia in the context of access to the railway infrastructure facilities by third parties. I understand that mirror legislation has already been introduced into the Northern Territory Parliament, so the principles will apply equally in both jurisdictions with the third party access code applying only to the Tarcoola to Darwin section of the railway. The existing access regime established by the South Australian Railways (Operation and Access) Act 1997 cannot be applied for two reasons: first, no provision is made for joint administration or coverage of a railway across South Australia; and, secondly, the pricing principles do not apply to a green fields venture where the capital investment cost must be recovered. Key features of the access code include the following: the joint appointment of a Regulator by two Transport Ministers; separate pricing principles for passenger and freight services; and reporting by the Regulator to the Ministers.

I note that the Bill was the subject of consultation between the three building consortia, the National Competition Council, the Northern Territory Government and the South Australian Government. Therefore, the Opposition supports the Bill.

The Hon. R.D. LAWSON (Minister for Disability Services): I support the second reading of this important measure. The completion of the railway line from Adelaide to Darwin has long been an objective of South Australian Governments, and it is a great testament to the present Government that it has brought the proposal to the stage where delivery of the line is imminent. This measure will provide an important impetus to that proposal. One of the weaknesses of the Australian railway system was that, for too long, the corporations (Government departments originally) owned not only the rails but also the rolling stock and had the exclusive right to operate the railway service on those rails and with that rolling stock.

One of the great advantages of the national competition policy—and one of the achievements of that policy—has been to open the rail services to competition and to permit third parties to obtain access to operate services on our rail lines. This is not the place to outline the recent history of railways nationally, but there have been an enormous number of improvements in service and competition, and I think the railways in this country now have a future, whereas previously they did not. The AustralAsia Railway (Third Party Access) Bill will establish a process to enable third parties to obtain access to operate services on the new railway line, described as the Tarcoola to Darwin corridor, but I prefer to think of it as the Adelaide to Darwin rail link. I commend the Government and the Minister for bringing forward this most important and significant legislation.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

ROAD TRAFFIC (ROAD RULES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 March. Page 1070.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. In doing so, I would just like to say that we have gone to some lengths to inform ourselves and others about the proposed road rules. This is a very big step and I think they are very important. We have circulated the legislation to a number of organisations, including the RAA, the Law Society and relevant unions, and I will return to their comments later. The Opposition has also received extensive comparative information courtesy of the Minister, which has also been very useful. I thank the Minister for the lengthy briefings she provided for the Labor Party's Caucus Committee on this and another Bill which we will debate later. Certainly on this important issue I think it has been particularly helpful and useful.

It is not an understatement to suggest that the gestation period for national road rules policy has been a long one, dating back to 1948 in fact. The notion of national uniformity is something I support in general but especially so in relation to road policy and legislation. My reasons for this are many, but of particular significance to me is the road safety implications of national uniformity; and, more importantly, the dangers associated with a lack of uniformity and the confusion it can cause for motorists as they try to manage different rules in different States of Australia. I recently attended a transport safety conference and symposium in Brisbane in which the future road rules figured prominently. This was also attended by members of this Parliament—the Minister for Transport and Mr Joe Scalzi from another place—and members of all the committees on transport safety across all the States of Australia. The level of genuine collaboration between the States on this and other issues was very clear.

A seminar also took place later in the conference dealing with the issue of the Olympic Games, the expected enormous influx of visitors to Australia who will be attending the games both as athletes and as visitors and viewers of the event, and the confusion that may arise with a number of overseas visitors who are totally unaware of the differences in the way each State deals with its road legislation. It was generally conceded that a large number of the accidents which occur, particularly in country Australia, are directly associated with a lack of understanding about the nature of our roads themselves, the distances people have to travel and the differences in legislation from one State to another, to say nothing of driving on a different side of the road, which is very confusing for a lot of people. Having done this in Europe, I know it is certainly very confusing.

I turn now to the legislation itself. This Bill does not introduce the actual road rules but provides for them to be made as South Australian subordinate legislation. As the Minister points out, national road rules affect every kind of road user, from pedestrians and cyclists through to people driving large trucks. It is hard to escape the impact of the rules, again enforcing the notion of uniformity and consistency across borders. While there has been much publicity and potential controversy surrounding the rules, it is important to remember that most of South Australia's traffic laws will remain unchanged. Furthermore, there is still quite a degree of flexibility, given that States can accommodate some local requirements. I am also pleased that the Minister has used this opportunity to administratively tidy up other minor traffic provisions by including them in the road rules. Hopefully, this will lead to greater ease of access and understanding.

In the course of consultation, I received submissions from the RAA and the Local Government Association. The RAA has a concern in relation to new section 174A, and its letter states:

> The amendments to the Road Traffic Act are primarily the mechanism of bringing in the Australian road rules. However, there is a new section 174A, dealing with owners and expiation of offences, and similar to the unregistered/uninsured offences...

They are mentioned earlier in the letter and relate to the Motor Vehicles (Miscellaneous) Amendment Bill. It continues:

> There is no defence for the owner who did not know and could not by the exercise of reasonable diligence have ascertained the identity of the person who was driving the vehicle at the time. It is recommended that this defence should also be inserted in section 174A.

I refer members to that new section, which is also in the other Bill. It might be easier if I referred to this matter in detail in Committee. I understand that the Minister received that letter from the RAA, and I raised this issue with the Minister's officers in a briefing, when they indicated that they would look at this whole area. There has not been an amendment, so presumably the Minister is not supporting the request. I would like to know the reasons behind why she is not supporting the request.

The Local Government Association has written to a number of members of Parliament, and I hope it has also written to the Minister. It has raised a number of issues in the areas of road closures, parking regulations, ordinary regulations, small wheeled vehicles, traffic control devices, the Minister's delegations, the marking of tyres, vehicle owners and expiation, and evidentiary provisions. The Minister is not present at the moment; I wonder whether she has a copy of this LGA submission. If not, I am very happy to provide her with a copy so that, when the Minister makes her second reading response, she can respond to these queries and in particular the cost implications.

The proposed new road rules come into effect in South Australia on 1 December 1999, and I understand that South Australia will be the first State to bring in the legislation. Will the Minister report on the progress of the other States? Given that this is quite a change in the way that we deal with road rules and that we will no longer have legislation but will be dealing with them by regulation, will the Minister outline the process by which the subordinate legislation will take place, and whether there will be very wide public consultation on this? I do not think many people really understand what subordinate legislation is, so it is important that when regulations come in people understand how they can give evidence to the Legislative Review Committee and have some kind of input into the regulations. I have also received quite lengthy submissions from Mr Gordon Howie, as has the Minister, I understand; and that was one of the issues he raised. It seems to me that some financial commitment must be made to provide an ongoing publicity campaign about the introduction of the changes and what motorists can expect.

Perhaps the Minister can detail what kind of program will be instituted.

I have discussed with the Minister the need for a report back to Parliament after 12 months in both these and some other areas under the next Bill we will debate. At this stage I do not intend to move an amendment regarding a report back to Parliament; if necessary I will move such an amendment, but I would trust the Minister's undertaking that she will do so. To make sure, we might move an amendment, which I understand the Minister would support.

We are taking a historic step with these two Bills, and hopefully over time even the minor differences among some States can be ironed out. This is a huge step forward. I congratulate the Ministers in every State on coming to an agreement. I did not attend the meetings, so I do not know whether they were painless or painful. The Minister might like to comment. I congratulate the Ministers across Australia; it is a very difficult feat indeed. It is difficult enough to get the members of Parliament in one State to agree on anything, let alone trying to get Parliaments across Australia to agree. This is a big step forward. I certainly hope the rules will work and that they will be easier for the public of Australia to understand, as is the intent. I certainly hope it will be easier for the driving and walking public of Australia to move from State to State with some kind of uniformity, consistency and safety, given that we will be absolutely sure that a number of laws are the same, albeit that some of the differences are quite fundamental.

The Hon. T.G. CAMERON: This Bill deals with a wide range of vehicular and driving matters as part of the objective of making progress towards consistent traffic laws throughout Australia. The Australian road rules (ARR) will make provisions to regulate traffic movement, vehicle parking and the use of roads. The ARR are not law at present but are expected to be introduced in most States and Territories from December 1999.

This Bill will allow the ARR to be made as South Australia's subordinate legislation in place of conflicting sections of the Road Traffic Act 1961 and regulations under the Local Government Act 1934. There have been attempts to introduce uniform road rules for Australia since 1948. Whilst the vast bulk of road traffic rules around the country are the same, a number of differences still exist.

I fully support the move towards uniform road rules, but I have said before, and I will place it on the record again, that I do believe that there are occasions where it is more than appropriate for States to have a different rule from that which may exist elsewhere or even in fact in the majority of other States; and, as far as South Australia is concerned, I refer principally to the 110 kilometre speed limit in the country. I was pleased to see the Government resist efforts to reduce that speed limit, and I think that is an excellent example of where South Australia has acted wisely and taken into account South Australian conditions.

I also cite the example of the Government's refusal, despite intense lobbying from some quarters, to introduce demerit points for speed camera offences. Heaven knows how many people would lose their driver's licence in the first year or two of that proposal. Benefits to flow from this Bill include making it easier and safer for drivers when moving from State to State, as well as making exports more competitive. Interstate transport operators will no longer have to cope with a variety of different road laws in each State, and the new road laws will come into effect across Australia.

Transport SA has established an ARR steering committee to contribute to the smooth and efficient implementation of the ARR on 1 December 1999. The bulk of the clauses contained in this Bill are sensible and many are long overdue—and I will cite just a few. Clause 18 empowers the Minister to introduce temporary road closures and widens the definition of 'event' so that road closure powers are extended to political, artistic, cultural or other activities. Clause 29 will ensure that police retain the authority to require breath tests in particular circumstances, and late amendments to section 47e provided by the Minister will ensure that there is no extension of existing police powers.

Clause 33 provides for the forfeiture and seizure of radar detectors or any device that detects or interferes with a speed measuring device. Clause 43 will prevent councils from prohibiting small-wheeled vehicles from certain streets and roads within their areas, and proposed section 99B imposes restrictions on the use of wheeled recreation devices and wheeled toys on footpaths; specifically it prohibits riding two or more abreast and obliges the rider to give warning to pedestrians. SA First supports the second reading.

The Hon. CAROLINE SCHAEFER: I also support this Bill. I have been a member of the Minister's backbench committee and I was involved in the briefing of this legislation quite early in the year. As previous speakers have said, there have been endeavours to bring some degree of consistency to road rules across Australia. I think those of us who have driven interstate know how confusing somewhat minor road rules can be from State to State. I also commend the Minister for trying to apply some commonsense and resisting some of the originally suggested changes to the law. I recognise that the Hon. Carolyn Pickles says that if you do not speed you will not lose demerit merits.

The Hon. L.H. Davis: She has a car and a driver.

The Hon. CAROLINE SCHAEFER: Yes. I am on record as suggesting, and commending the Minister for having, a road audit to decide which roads are suitable to be driven on at 110 km/h and/or greater and/or less, and indeed the same with urban roads, some of which I believe are quite unsafe to be driven on at 60 km/h. I have always supported a stance on a speed limit being set suitable to that road rather than having blanket speed limits.

At various stages, I have also raised with the Minister that, had demerit points for speed cameras been brought in, it would be quite conceivable for someone who was driving, say, from Port Augusta to Adelaide and who was not driving in a manner dangerous could lose their licence before they realised they had suffered any demerit points. I am pleased that particular provision is not part of this Bill.

This Bill does not generally impede on the authority of local government to use its powers to control traffic on roads under its care and control, and it does allow for people under some circumstances to restrict traffic, for instance, plumbers who need to dig up roads in an emergency. There is also provision for roads on which rollerblades cannot be used. Generally the provisions, I believe, are commonsense. They do move towards a more transparent, more understandable and more common system of road rules throughout Australia and, generally, I support the Bill.

The Hon. SANDRA KANCK: The Democrats welcome rules that will provide for some consistency across Australia. We have become an increasingly more mobile society, and moving across from one State to another is now common

place. Certainly, as someone who grew up in Broken Hill, the movement between Broken Hill and Adelaide, or just between New South Wales and South Australia, was a very common occurrence. There are some things in the Bill about which I am very pleased; for instance, I love the prohibition on tailgating and, as the Minister knows, I have asked questions about that in the past. As always, the ultimate issue is about whether adequate resources will be available to police it, but I look forward to seeing more arrests or charges in that area.

I also approve the prohibition of the use of radar detectors and jammers. I think that if people are exceeding the speed limit—and, generally speaking, they have to exceed it by more than 10 per cent—if they get caught it is their own fault. I do have some concerns, however, about the Bill. Clause 35, which introduces a new section 82, provides for a speed limit while passing a school bus, as follows:

> A person must not drive a vehicle at a greater speed than 25 kilometres per hour while passing a school bus that has stopped on a road apparently for the purpose of permitting children to board or alight.

I would be interested to know from the Minister what accident figures there might be to justify this new section. When I was in Queensland in April, I noted that some of the school buses had on the back flashing lights, similar to hazard lights, that drivers could actually press to start. When those hazard lights were flashing, motorists knew they had to slow. But, I think, from recollection, the speed may have been down to only 40 km/h rather than the 25 km/h provided for in this Bill. I wonder whether the Minister would be able to tell us what Queensland is going to do, whether it is moving to something like this. It seems to me that this is a big step to move down, and I imagine that the public would not be very much aware of this proposal and that it is one that is likely to cause a bit of public reaction, just as happened with the 25 km/h school zones a couple of years ago.

The Democrats' major concern about the legislation, however, is that so much of it is in regulations. We have had a fairly consistent view in all sorts of legislation for many years that relying on regulations can sometimes be a little tenuous, particularly in this case where the Minister has provided us with a draft copy of those regulations.

There are 285 pages of them; 351 rules in all. I take it that they will all be gazetted at one time. If in the period between passing the legislation in this session and those regulations being gazetted and coming into force in December we find people who say to us that there is something wrong there that we had not considered, does it mean that our only recourse to action for one rule is to disallow all 351 of them? That is how it appears to me, and I see it as being a fairly monumental task to convince the Minister and the Government that for one rule the other 350 should also be disallowed. So, that is a concern. I appreciate the clarity in the drafting of the road rules. As the Minister herself has noted, they are more clear than our current Road Traffic Act in many aspects; but, nevertheless, it does remain a concern that this is the only way, should we find weaknesses over the next six months, to deal with these weaknesses.

The Hon. Diana Laidlaw: I will sum up later, but I point out that at any time you can raise those matters with me and I will be more than happy to look at them. In the context of uniformity across Australia, that is one of our restrictions.

The Hon. SANDRA KANCK: Okay. I would also ask that, where there is a perceived need in the future for South Australia to deviate from the Australian road rules, it should come before us as legislation and not regulations. As I said at the outset, we do welcome these new Australian road rules. We have some concerns, but they have been more than 50 years in the making and implementation, and for that reason I indicate that we support the second reading.

The Hon. L.H. DAVIS secured the adjournment of the debate.

MOTOR VEHICLES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 March. Page 1075.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. Previously, we have dealt with the Road Traffic (Road Rules) Amendment Bill, the mechanism by which the road rules will be made. In this Bill we are considering the actual rules themselves as drafted and agreed to by the national group of Transport Ministers. My position has always been one of support for national uniformity, and this case is no different. As I have declared my views on this matter previously, I will move straight to the legislation before us.

The new rules have the potential to cause great controversy. Change is not always easy to communicate, let alone implement; however, given the national importance of the legislation I want to assure the Council, the community and industry groups affected that the Opposition has approached this issue seriously and conscientiously. Nevertheless, there are issues of concern which I will deal with in the spirit of cooperation and in the State and national interest. If the new road rules lead to a reduction in road trauma and death, they are certainly worth pursuing. In debating this Bill I refer to information I requested of the Minister which compares the proposed national rules with the current South Australian law.

I would like again to acknowledge the Minister's help in trying to clarify elements of the legislation and, in particular, the table that the Minister issued to me which dealt with the summary of the Australian road rules of current South Australian law and whether the Australian road rules will provide for particular variations. Indeed, that was very useful when I dealt with members of my own Caucus who had lots of issues to raise. I was surprised to learn of the degree of flexibility inherent in the system that allows for local variations to the proposed rules, and I will outline these shortly.

I do hope that these local variations do not lead to continued confusion over time or to a 'drifting back' to the way we dealt with things in the past. For example, I believe that South Australia's speed limit in school zone areas of 25 km/h is much better than the national limit of 40 km/h. From talking to some interstate Ministers I know that they were quite surprised and did not know that we have had this speed limit for 30 or 40 years. They do not drive in South Australia, and if they do they obviously drive with their eyes closed.

When examining the cases where local variations are prohibited it is clear, however, that this is done in the interest of commonsense. For example, the following rules do not allow local variations: rules 46 and 48, vehicles leaving a stationary position must first indicate for five seconds; rule 75, vehicles entering or leaving a road must give way to pedestrians; and rule 78, keep clear, give way and do not obstruct emergency vehicles with flashing light or sounding

alarm. I must say that I have been quite disturbed on many occasions to see that people simply do not comply with that rule. Sometimes it is very difficult to know from which direction the warning signal is coming. If your windows are up, and as some people do drive with wall to wall sound in their cars—

The Hon. M.J. Elliott: And children.

The Hon. CAROLYN PICKLES: Yes, children—and music. In fact, cars sometimes vibrant with the sound. It is a problem, and people must be aware that these emergency vehicles are sounding their warning device, flashing their lights and sounding their alarm because they are going to the scene of an accident, taking somebody who is desperately ill to hospital, attending a fire, or whatever. Other rules that do not allow local variations include rule 80, drivers must stop if pedestrians on or entering children's crossing until pedestrian leaves the crossing; rule 119, cyclist may turn right from the left lane on a multi-lane roundabout but must give way to vehicles leaving the roundabout; and rule 132, drivers must not cross a single continuous dividing line other than to enter or leave the road. This may cause some difficulties in local government areas where at the present time it is a cautionary provision.

When most people are taught to drive they view that solid line as a brick wall and do not cross it. If, mentally, that is in your head, you are okay; but in residential areas where there are very narrow streets and residents are allowed to park either side, the local councils will have to turn that into a dotted line or ask residents to park off-street, which may cause some problems. Will the Minister address that issue? What would be the cost implications for local government in changing their road markings, and what financial assistance might they get?

Other rules include rule 149, merge requirement when lines of traffic merge; rule 172, parking prohibitions from children's or pedestrians' crossing 20 metres before and 10 metres after the crossing; rule 238, pedestrians should use footpath or if not available must keep to left or right; and rule 272 prohibits a passenger from interfering with a driver's control or obstructing a driver's view.

It is clearly a sensible provision and sometimes it is interesting to note what goes on in some cars when people are clearly not driving with their seat belt on, because all sorts of movement goes on in the back of vehicles, which clearly must obstruct a driver's view. It is clear that the new rules are not only based on common sense but advanced, it seems to me, in the interests of promoting pedestrian and motorist safety. The areas where local variations are allowed are more controversial in my view and require more detailed information from the Minister. Although I have discussed these matters at length with the Minister and the officers of Transport SA, the Minister may have some updated information to provide to the Council.

The rules are as follows: rule 225 prohibits the use of a device for detecting or preventing the use of a speed measuring device. South Australia may exempt certain vehicles: what vehicles will they be? Will the Minister give more detail? Rule 250 refers to cyclists on a footpath. It is a vexing question. As a cyclist, I have to admit that I cycle on the footpath in areas where I consider it to be a danger to myself to cycle on the road, and that is in many areas. However, we have a law against that and, while I would respect the law in most cases, I believe that many motorists do not respect cyclists.

I note that the Minister is looking at a regulation that will provide that South Australian law may prohibit footpath cycling by riders aged 12 years or older. Another law in this jurisdiction may provide that a commercial courier must not ride a bicycle on any footpath, or any footpath in a particular area, and that an adult must not ride a bicycle on a footpath unless the adult is accompanying a child under 12 years who is also riding on the footpath. Perhaps the Minister can give us more detail about that. I certainly support young people under the age of 12 years—which includes more or less primary school children—being allowed to ride on the footpath and certainly, if they are accompanied by an adult, it makes sense that the adult too is cycling on the footpath.

It has been raised with me by some of my colleagues whether under this proposed regulation the Minister may look at providing wider footpaths in some areas where we are trying to get people to be more aware of older members of the community walking on the footpath. It is a requirement for cyclists to sound their warning device—that is a national rule—when approaching a pedestrian. However, I have noticed a certain slackness by cyclists in this regard. One of the other issues that has been raised with me is that, if an accident does occur between a child riding a cycle legally on the road and a pedestrian, in many cases an older pedestrian, as has occurred, there is no level of compensation. Maybe the Minister would like to discuss that area too.

Although it is not in this context, the issue of cyclists riding at night without their lights on and, unwisely in my view, without any type of reflective clothing has been raised with me. Will the Minister discuss whether there is a proposal nationally to ensure that cyclists use reflective clothing when cycling at night? It would seem to be a sensible thing to do, but there is not a requirement to do so. There is certainly a requirement for cycle helmets to be worn, but in twilight it is much safer for a cyclist to wear some kind of reflective clothing. I have been appalled to see the number of cyclists who cycle in very dark clothing. If only they knew how invisible they are on the road they would certainly wear lighter or reflective clothing, particularly at twilight.

Rule 226 refers to child restraints and states, in the South Australian variations, that jurisdictions can exempt older vehicles from the requirement to have seat belts fitted. The Australian road rules also allow jurisdictions to prohibit unrestrained passengers with options to allow a defence. Will the Minister outline in more detail what vehicles would be exempt? I presume it would also refer to vintage vehicles.

Rule 268 refers to a prohibition to travel in vehicles that are unenclosed, that is, utilities. South Australia may impose conditions on the carriage of persons. The national road rule prohibits persons travelling in part of a vehicle that is unenclosed and designed primarily for the carriage of goods, that is, a utility. The South Australian law, the Road Traffic Act, does not clearly prohibit persons travelling in the rear of a utility or in the goods part of a vehicle (section 94A of the Act), and the local variation proposition is that South Australian law may impose conditions on carriage of passengers in the rear of utes etcetera and/or exempt persons or vehicles from the requirement. It may also prohibit persons travelling in an endorsed enclosed goods area, that is, it may prohibit persons travelling in the rear of a panel van or station wagon unless it is fitted with seat belts. We need to define in South Australian law the term 'enclosure': that is, is a cage and/or canvass cover enclosed for the purposes of the Australian road rule? Will the Minister explore that in more detail so that we can understand precisely the proposal? I

certainly do not support people travelling in the back of a utility: it is a very dangerous occupation or habit. It would seem that you would only have to have the ute roll-over and there could be a very nasty accident indeed.

I refer to rule 300 of the Australian road rules, which prohibits the use of mobile hand held telephones by drivers. We do not have a comparable provision, although the 'drive without due care' would obviously refer to that. The proposal under the new South Australian law is that we may exempt drivers from provisions. Will the Minister outline which ones? I ask the question tongue in cheek, but a number of Caucus colleagues are inveterate mobile phone users and ride bicycles. What is the rule for bike users?

The Hon. A.J. Redford: Perhaps we could set an example and allow some provision to put our phones in our cars—

The Hon. CAROLYN PICKLES: There is a provision and there are little devices you can put into your ear, I understand.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: The honourable member raises various issues to do with the entitlements of members of Parliament. I know that I am entitled to a Government vehicle and that has a hands free telephone for the driver to use if she is using the telephone so that she does not have to dial the numbers and she has her hands free. I understand they are provided in all the Government vehicles for the Ministers and the Opposition people too. That is the safest way, but I understand they are fairly expensive.

Can the Minister address the cost of that? I have driven with people in New South Wales, which has this law against the use of mobile phones, and they use a small device that you can insert in your phone and have in your ear. I understand the device costs about $40. Maybe the Minister has an update on that. The following variations are not so controversial although they will have cost implications:

> Rule 77, give way to bus provisions; rule 127, distances between long vehicles; rule 147, vehicles allowed to cross continuous lane line; rule 151, permit additional motor cyclists to ride two abreast; rule 170, South Australia may vary parking prohibition from traffic intersection; rule 173, South Australia may vary parking prohibition from marked foot crossings; rule 174, South Australia may vary parking prohibition from bicycle crossing lights; rule 175, South Australia may vary parking prohibition from level crossing; rule 195, South Australia may vary prohibiting stopping in bus stop; rule 198, prohibits vehicles from obstructing driveway, bicycle path or passageway; rule 206, South Australian law may set longer periods for disability parking permit holders; rule 208, parallel parking provisions—South Australia may vary three metre distance; rule 213, obligation to secure unattended vehicle—South Australia may vary; rule 288-9, prohibits vehicles driving on footpaths—South Australia may permit footpath parking; and rule 298, cannot tow person in a trailer—South Australia may exempt trailer from provision but no power to exempt persons.

The RAA made some comments on this Bill (I am sure the Minister has been provided with a copy), as follows:

> Both section 9 (unregistered vehicle) and section 102 (uninsured vehicle) creates a new offence of causing a vehicle to stand on a road (either unregistered or uninsured). The new provisions create an offence for the owner (as well as the driver) and provide no defence for the owner, other than proving that they were not the owner at the time. This means in effect that, if the vehicle was stolen and dumped or even used by family or friend without permission, then the owner is liable.
>
> It is considered that the defence offered in section 79B of the Road Traffic Act (photographic detection devices) should be applied to these sections. That defence says:
>
> > . . . the registered owner does not know and could not by the exercise of reasonable diligence have ascertained the identity of the person who was driving the vehicle at the time.
>
> The defence would need to be amended to read 'driving or left standing'. Section 81AB introduces probationary licences, which will be issued to an applicant who is applying for a driver's licence following a disqualification that resulted in the cancellation of his/her driver's licence. The conditions of a probationary licence will be threefold:
>
> 1. Carrying of licence at all times while driving;
> 2. Zero alcohol content while driving; and
> 3. Must not incur two or more demerit points.
>
> It is point 3 that causes a concern as it is inconsistent with the current provisional licence, which has penalties for reaching four or more demerit points. The only offences that attract less than two demerit points are:
>
> 1. Speed less than 15 km/h over limit;
> 2. Failing to dip headlights; and
> 3. Driving or causing a vehicle to stand without the correct lamps or reflectors.
>
> Therefore, we could have the case of a first offender stopped at an RBT site who records a reading of 0.085 per cent. They serve a six month licence suspension and resume with a probationary licence. In the next 12 months any offences, such as a minor due care or having an elbow out of a vehicle, would result in a further six month licence suspension because of the two point limit. It is recommended that the new section should allow for four demerit points as is applicable for holders of provisional licences.

When I raised this with the officers from the Minister's department, I understood they said that this was national consistency and, therefore, it could not be amended. The Minister may care to comment on that matter.

Local government has raised a number of issues which impinge on this matter. What will be the total cost of the implementation? I have assumed that the Federal Government has some responsibility to pick up the cost of some of this; and local government will have to bear some cost. Will the Minister give us a breakdown on who bears what cost, and will he outline in some detail the State's approach to any advertising campaign? Although I understand that the legislation will go through the Parliaments by December, when exactly will it be implemented and will there be a moratorium so that people can get used to it? With these comments, I think it is a good move to simplify the road rules so that people can understand them.

Like the Hon. Sandra Kanck, the Opposition has in the past been nervous about everything being done by regulation. I take up the point the Hon. Sandra Kanck made in her second reading speech on the other Bill, that if one is disallowed then the whole lot would be disallowed. I think that that is a curious way to deal with it. Perhaps the Minister can discuss that level of flexibility, because it would seem to me that this is far-reaching legislation. I understand that there has been a lot of work done in the area but nobody is perfect and, as the Hon. Sandra Kanck pointed out, someone may come up with a view that the regulations are deficient.

It would seem to me that it would be sensible to be able to deal with them singly, if there is some deficiency, and not throw everything out, since a lot of these changes would be very sensible and are long overdue. Because of the national consistency involved, I again congratulate the Ministers of all the States of Australia and the Territories who have participated in reaching agreement on this historic legislation. I support the second reading.

The Hon. SANDRA KANCK: This is another Bill which deals with national consistency on the transport scene. I have a few questions of clarification which I would like the Minister to address during her second reading reply. Regarding demerit points, when we move from our State based scheme to a national scheme, how will these be handled? It is unclear to me from the legislation whether the number of

points that have been accumulated at a State level will be carried through to the record at a national level. For that matter, who will be responsible for maintaining the records? I want to be certain that people who have accumulated demerit points will have them transferred to their record under a national scheme. They should not be allowed to get away with breaking the rules. In her second reading explanation, the Minister said:

> At this time, the Bill does not include the application of demerit points to speeding offences detected by speed cameras and red light cameras.

I assume from the words 'at this time' that there is an intention some way down the track to make the scheme apply to demerit points. So, I would like the Minister to provide an indication of the long-term intention in this regard. I would also like to know in relation to demerit points who will keep control of the records. This raises for me the issue of who is responsible for licensing. Will each State continue with its own licensing procedures? Will there be a central repository of information at a national level? For instance, I note that proposed new section 83 refers to disqualification. It provides:

> If a person is disqualified from driving a motor vehicle in another State or Territory of the Commonwealth, the Registrar must, if the person holds a licence or learner's permit under this Act, cancel the licence or permit. . .

Does this mean that, from a bureaucratic point of view, if I lose my licence in South Australia every other jurisdiction will be advised that Sandra Kanck has lost her licence on the off chance that I might have a licence—

The Hon. M.J. Elliott: Not before time.

The Hon. SANDRA KANCK: I'm a very safe driver.

The Hon. M.J. Elliott: People in little red cars are never safe!

The Hon. SANDRA KANCK: The colour of the car has nothing to do with it.

The Hon. M.J. Elliott: Statistically speaking, people who drive red cars have more accidents than people who drive a car of any other colour. That's per capita.

The Hon. SANDRA KANCK: I've been driving my little red car for 4½ years and I've had one accident so far, and that was because of a blind spot. The question I ask relates to how this disqualification will be enforced, whether the Registrar in South Australia will write to the Registrar in every other State or whether there will be a central repository where the information is recorded so that the Registrar in each State can simply go to that register on a regular basis to see the names of those people who have had their licence disqualified in other States. I think this is a fairly complicated piece of legislation, but I indicate that the Democrats support the second reading.

The Hon. T.G. CAMERON: This Bill amends the Motor Vehicles Act 1959 and the Road Traffic Act 1961 to make South Australian law consistent with nationally developed guidelines. These reforms will reduce costs for complying with different rules from State to State and should also assist in the reduction of fraud and vehicle theft through stricter identification requirements and a stricter registration process.

Important changes which will occur to the Act include: introducing a right to internal review of decisions of the Registrar; ensuring that all motor vehicles that are exempt from having to be registered are covered either by compulsory third party insurance or have public liability insurance; introducing probationary licences for people who apply for a licence after a period of licence cancellation; requiring an application for transfer to include the same information as an application for registration; and requiring medical tests for assessing medical fitness and competence to drive to be conducted in accordance with national guidelines.

The Bill also introduces changes to demerit points by moving the schedule of offences that attract demerit points from the Act to regulations and requiring the Registrar to notify interstate authorities of demerit points incurred in South Australia by interstate drivers. Whilst I support the second part of that statement—that is, that the Registrar will be required to notify interstate authorities of demerit points incurred in South Australia by interstate drivers—I do not support the change which would allow demerit points to be set arbitrarily by the Government by regulation. I am referring to clause 63, which I will oppose.

New section 98BC is of interest as it introduces a new option for drivers who accumulate 12 or more demerit points and face disqualification from holding or obtaining a licence. A driver now has the option of either accepting disqualification or undertaking a 12 month good behaviour bond. If a driver breaks that bond and incurs more than one demerit point, they will automatically be disqualified for twice the period. I understand that this system already operates in Victoria, New South Wales, Queensland, Tasmania and the ACT.

I am pleased to see that the Bill does not introduce demerit points for speed camera offences or red light camera offences. I, too, seek clarification from the Minister regarding the wording in her second reading explanation. The Government has also promised to ensure that information in respect of these changes will be provided to drivers at the time of registration of the vehicle or obtaining a driver's licence.

Considering the extent of the changes that are taking place, I ask the Minister to outline to the Council what public relations or public awareness campaigns the Government will run to ensure that all drivers are fully informed of what changes will take place and when. At this stage, SA First supports the second reading.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

AUSTRALASIA RAILWAY (THIRD PARTY ACCESS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1546.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank all members for their contribution to this important Bill. During the past week, I advised members that the most recent advice that we had received from the Commonwealth was that it was necessary to pass this Bill during this session so that when all the documents for the consortium and the bid process for the building of the railway line from Adelaide to Alice Springs to Darwin are resolved in October we would be in a position for the Federal Minister to endorse the third party access provisions as outlined in the Bill.

That recent advice added a dimension of some urgency to bringing on this debate. I thank members for cooperating in this matter. I also thank them for their support of the Bill, particularly the support across Party lines for this important project: the Adelaide-Darwin railway. This Bill is critical to

the success of that venture in terms of the provision of third party access matters.

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

CITY OF ADELAIDE (RUNDLE MALL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 June. Page 1251.)

The Hon. A.J. REDFORD: I support this piece of legislation and note that the introduction of this Bill is not before time. The Bill has two purposes: first, to regulate the conduct of vehicles and other users of Rundle Mall; and, secondly, to abolish the Rundle Street Mall Act 1975 and to pass on the responsibilities of the Rundle Mall Committee to the City of Adelaide. I had the opportunity, indeed the privilege, to serve on the Statutory Authorities Review Committee in the last Parliament. That committee looked at the Rundle Mall Committee and tabled a report on 3 July 1996 in which it made a number of recommendations. It is pleasing to see that the recommendations made by the Statutory Authorities Review Committee are promulgated with this legislation.

The unanimous recommendations of the committee were, first, that the Rundle Mall Act be repealed; secondly, that the council be fully responsible for all matters relating to the maintenance and control of the Rundle Mall; thirdly, that a body be established to oversee the promotion and marketing of the city centre as a whole by the City of Adelaide, including the State Government; and, fourthly, if it is determined that a special rate be raised by the council partly to fund the Rundle Mall Committee, that appropriate mechanisms be put in place to ensure accountability for the proper expenditure of these funds. This piece of legislation is the final stage in the implementation of the recommendations made by the Statutory Authorities Review Committee.

The body established to oversee the promotion and marketing of the city centre has achieved substantial publicity following on from a number of reports in relation to the City of Adelaide, and indeed we are all hopeful that things will happen as a consequence. In relation to the issue of special rates—which is the subject of amendments to the Local Government Bill and which, I understand, we will be dealing with over the next few days—again that part of the recommendation appears to have been fully accepted by everyone concerned, and this Bill deals with the first two recommendations.

I well recall that the reason for the Statutory Authorities Review Committee's deciding to review the Rundle Mall Committee was that at the time we were in the middle of a very lengthy and extensive investigation involving ETSA, and the Chair of the committee, the Hon. Legh Davis, suggested that we might look at some other statutory authorities. If my recollection serves me correctly—and I know the Hon. Legh Davis will correct me if I am wrong—the suggestion that we look at the Rundle Mall Committee came from the Hon. Anne Levy. I have to say that, when she raised that issue, I leant over to the Hon. Legh Davis and said, 'The Rundle Mall Committee—I have never heard of it.' I did not know it existed. I know that even the Hon. Trevor Crothers might have been a bit surprised at the existence of the Rundle Mall Committee when the Hon. Anne Levy raised it.

We went through the process of reviewing the Rundle Mall Committee and, I must say, for a very short report involving a very small committee, it took an extremely long time from start to finish simply because there were substantial delays in receipt of correspondence, first, from the Rundle Mall Committee and then from the Minister's office. However, it was pleasing to see not only that the committee was unanimous in its recommendations but also that it received the full support of the retail sector of the Adelaide CBD, and indeed the City of Adelaide. This is a classic example of why we have committees. I believe that this was probably the first step in a process of looking at how the City of Adelaide and its government and management ought to be reviewed. I think the suggestion by the Hon. Anne Levy and endorsed by the Hon. Legh Davis was a very important step in leading to the changes that we have seen recently.

I hope that the City of Adelaide will take upon the task of revamping the mall and regenerating the city as a shopping precinct with considerable energy, and we all hope that ultimately the lofty ambitions that we have will be fulfilled, first, by the City of Adelaide itself and, secondly, by the body set up under the Partnership 21 scheme. Anyone who is interested and who reads the *Hansard* on this issue should have a good look at the report of the Statutory Authorities Review Committee. Some very interesting material is contained within it, including statistics and information concerning the changing shopping habits of people who look for retail shopping outlets. Over recent years we have seen a huge shift from shopping in the central business district to shopping in substantial shopping centres in the suburbs, in the case of Adelaide the shopping centres owned by Westfield at Marion and Tea Tree Plaza and the other shopping centres at Noarlunga and Elizabeth.

Indeed, far too often we look at the issue of shopping as being the provision of goods and nothing else. A number of people continue to put the point of view that shopping is in fact a leisure activity in general terms and that there is a lot of competition in relation to that leisure activity. I know that on many weekends in Adelaide families make decisions as to whether or not they will go to the football or the cinema or go shopping, and that the money they have available to spend on any one of those three pursuits is looked at as the same discretionary dollar. Retailers are as much in competition with the football, cinema, TV at home or gardening activities as they are in competing with each other, and this recognises that fact. I am optimistic and hopeful, and I wish the City of Adelaide all the best in reinvigorating our retail sector. Finally, I congratulate the Minister on bringing this legislation into this place.

The PRESIDENT: Before the Minister replies to the debate, I point out that I did have the Hon. Mr Cameron down to speak on this matter.

The Hon. DIANA LAIDLAW: I did not.

The PRESIDENT: I am advised now that he is happy for it to go through.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank all members who have addressed this Bill. I thank the Hon. Terry Cameron and SA First for their support for this measure, but I particularly thank the Hons Ian Gilfillan, Legh Davis, Terry Roberts and Angus Redford for their contributions to this measure. The Bill arises from a report to this place by the Statutory Authorities Review Committee recommending the abolition of the Rundle Mall Committee. It is particularly relevant that

the committee is abolished following new arrangements between the State Government and the Adelaide City Council arising from Bills that passed through this place last year. Members would recognise that the Adelaide 21 project and more recently the Bills I have referred to have seen a new working relationship, in part involving the City Forum and particularly the Capital City Committee chaired by the Premier of which I am fortunate to be a member and on which the Adelaide City Council representation is led by the Lord Mayor.

I wish to take up a little time now on the contribution by the Hon. Ian Gilfillan, who accused me of inefficiency and said that he was aghast at the degree of inefficiency in my failure to furnish the Bill to the Lord Mayor and the council. He bases these accusations on advice from a Ms Sue Renner, Manager of Legal Services of the Adelaide City Council, dated Wednesday 26 May 1999. Ms Renner refers to the fact that there had been discussions with the Department of Planning SA and with the legal advisers within Adelaide City Council regarding the appeal of the legislation. She said that neither she nor the Lord Mayor had seen the Bill. I want to make very clear in this place that I have a regular monthly meeting with the Lord Mayor and the City Manager; this matter had been discussed among the three of us and there was agreement to proceed with the introduction of this Bill. I also raised the matter at the Capital City Committee; again, that was for noting and no concern was expressed at that time.

As Ms Renner's letter indicated, she had approved the matters that were the subject of this Bill. Her concern is that she had not seen the Bill, and perhaps it was remiss of Planning SA and me, but I can state very specifically that Planning SA sought Adelaide City Council's comments on the draft Bill, and this Bill before us did not vary in any way from the draft Bill. Adelaide City Council advised that the appropriate contact officer was Ms Sue Renner, Manager of Legal Services. Ms Renner was faxed a copy of the draft Bill and duly advised by letter faxed to Planning SA on 5 February that 'council was happy with the transfer of provisions into the City of Adelaide Act'. I have a letter dated 5 February to that effect and will read it as follows:

> [To:] Chief Project Officer, Legislation, Planning SA, Roma Mitchell House, 136 North Terrace, Adelaide: Attention Mr Chris Wellford. Dear Mr Wellford, Re: Proposed repeal of Rundle Street Mall Act 1975. I wish to advise that the Corporation of the City of Adelaide supports the proposed repeal of the Rundle Street Mall Act 1975 in the manner discussed with me. In particular, transitional provisions and additional provisions to be inserted into the City of Adelaide Act 1998 are seen as necessary. Thank you for providing the corporation with the opportunity for comment. Yours sincerely, Sue Renner, Manager, Legal Services Department.

Ms Renner verbally advised Planning SA that the Bill would not be put to a council meeting for discussion because it was purely technical in nature and contained no new policies. That essentially was the advice that the Lord Mayor and City Manager gave me at the meeting to which I have already referred in this place today.

So, while the Hon. Mr Gilfillan said that he was aghast at the degree of my or Planning SA's inefficiency—and I suppose it is one and the same—I wanted to outline the steps I took to inform the Adelaide City Council, the Lord Mayor and City Manager of the steps Planning SA had taken and to put on the record the letter that Planning SA had received from Ms Sue Renner in relation to this Bill. I felt that the advice with which the honourable member Ian Gilfillan had been provided and which he provided in turn to this place needed some further context. Beyond that issue, which is a side issue to the content of the Bill, the workings of the council and its relationship with the State Government, I thank members for their support for this measure.

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

STATUTES AMENDMENT (TRUSTS) BILL

Adjourned debate on second reading.

(Continued from 25 March. Page 1062.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. This Bill is designed to introduce greater accountability for trustees in managing funds held on trust. The Opposition welcomes and encourages such a policy change. The legislation does this in three ways: first, by widening the type of person who can apply to the Supreme Court for orders and directions in respect of charitable trusts and for orders to remove, replace and appoint trustees; secondly, the Bill also makes it clear that the court has power to remove or replace trustees if it is in the best interests of the beneficiaries and interested persons whilst ensuring that applications are responsible and not vexatious; thirdly, the legislation also widens the class of persons who can apply to a trustee company for information about a charitable trust and makes special provisions in relation to the investment of trust moneys in common funds.

Problems encountered in relation to the management of charitable trusts, however, include the future management of such a trust when testators and settlers have died. Obviously, this is not so much the case with individual beneficiaries. As the Attorney-General points out, the management of difficulties associated with charitable trusts has come to rest within his office. This, of course, has raised its own set of difficulties—again, highlighting the need for corrective legislation.

Other features of the Bill include closing the loophole in the Trustee Companies Act; precluding the charging of an administration fee in addition to the management fee; and permitting a trustee company to vary the classes of investment of a common fund. This places private trustee companies in the same position as the Public Trustee in this respect. The Bill converts the present divisional penalties to monetary amounts without changing the penalties.

Finally, I received quite lengthy correspondence from the Law Society in relation to this Bill, and I ask the Attorney-General: has there been any consultation by the Government with the Law Society on this issue? Does the Minister have any comment to make on the details of the lengthy submission, which I am sure was forwarded to the Government; if not, I am happy to supply the Government with a copy. My letter was sent to 'the Hon. C. Pickles, the Australian Democrats'. I do not wish to start a rumour: I have no intention of joining another political Party. I have taken it up with the Executive Director, Barry Fitzgerald, who said that it was a glitch in the system. I presume that the Attorney-General has received a copy of the Law Society's comments and I welcome his response to them. We support the Bill because it provides greater and more effective scrutiny in this area.

The Hon. IAN GILFILLAN: The Democrats support the second reading and, in fact, support this legislation. The intention of this legislation is welcome. It is entirely appropriate that those administering trusts on behalf of charities and

individuals should have to account for their actions—certainly, to a greater extent than has been the case. The Attorney's second reading explanation spelt out the reasons for this legislation and the Democrats have no difficulty supporting its general thrust. I believe that this will have the intended effect of ensuring that a greater proportion of funds invested for charitable or beneficial purposes will go to their intended recipient or for their intended purpose.

I have received correspondence on this Bill from the Anglican Archbishop of Adelaide, the Most Reverend Ian George, and from the Law Society. The Archbishop is very supportive of the Bill. His Grace points out that there has been a particular concern about the capacity of trustee companies to charge both a trustee's (or administration) fee and also a management fee—a practice known as double dipping. The Archbishop writes:

> A number of the leading charities and educational institutions, including the Anglican Church, Anglicare, the University of Adelaide, St Peters College Mission, the Crippled Children's Association, the Morialta Trust and many others have seen their income from these trusts whittled away by high fees and diminishing returns.

If this is indeed the case, it is a very sorry matter that it has taken as long as it has for the Parliament to act to protect the income of these charitable bodies.

The Law Society also supports the intentions of this Bill. I note from the covering letter that a copy of the society's submission has been sent to the Attorney-General; therefore, I presume that the Attorney-General is now aware of the various technical or drafting problems that the society has identified. I merely wish to draw attention to page 6 of the Law Society's submission where the author queries the Attorney-General's suggestion that the number of charitable trusts in South Australia is small—in the order of a few hundred—and that therefore the establishment of an Office of Charity Commissioner is not warranted. The Law Society indicates that that information is wrong and that there are many more charity trusts, and I quote the Law Society as follows:

> . . . underlying such things as recreation grounds and other public facilities, and charitable associations are frequently discovered by accident. . . they must generally be regarded as holding their property on trust for their purposes which, in many cases, originated from a formally constituted trust, although, with the passage of time, this is often overlooked. There are many churches or church lands, hospitals and non-government schools whose property must be regarded as being held pursuant to charitable trusts.

With these comments in mind, I ask the Attorney-General to indicate whether this changes his intention not to approve the appointment of any public officer, such as the Charities Commissioner in the UK. Depending upon the number of trusts which do exist this might be a part-time position for a suitably qualified person; and I suggest that the Office of Public Advocate could be looked at as being able to take on additional responsibilities involved in acting on behalf of the beneficiaries of trusts. I indicate that the Democrats support the second reading of the Bill.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 May. Page 1055.)

The Hon. R.D. LAWSON (Minister for Disability Services): I support this measure, which makes a number of minor but not insignificant amendments to the provisions of the Residential Tenancies Act. As explained by the Attorney in his second reading explanation, a decision of the New South Wales Supreme Court has given rise to the suggestion that the Residential Tenancies Tribunal may be empowered to award damages for disappointment and distress proceeding from physical inconvenience caused by a breach of a tenancy agreement. When one looks at the powers of the Residential Tenancies Tribunal contained in section 110 of our Act, I think it would be rather surprising to find our court hold that this tribunal does have such wide powers.

However, in my view it is appropriate to ensure that the tribunal does not arrogate to itself powers of this kind. I am not much in favour of the American style of granting exemplary or punitive damages, nor damages for disappointment and distress arising in relation to matters such as a residential tenancy agreement. Accordingly, I support the proposed amendments to section 110 of the Residential Tenancies Act which will make it clear beyond argument that the Residential Tenancies Tribunal does not have that power.

When one looks at the powers conferred on the tribunal by that section, it is clear that those powers were not intended to be punitive or powers similar to those of a court: rather, they are administrative powers to resolve the sorts of disputes that do arise in these matters. I certainly support the proposed amendments to section 97 which deal with abandoned goods and which will enable a landlord to recover the costs of newspaper advertisements. Those costs are considerable and are ever rising, and it is certainly an oversight on the part of the legislature that a specific provision was not previously made in section 97 to enable those costs to be recovered. I support the second reading.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

STATUTES AMENDMENT AND REPEAL (JUSTICE PORTFOLIO) BILL

Adjourned debate on second reading.

(Continued from 26 May. Page 1059.)

The Hon. R.D. LAWSON (Minister for Disability Services): I also support the second reading of this Bill, which is really a portmanteau Bill with a substantial number of provisions relating to various Acts that are administered by the Attorney-General. The principal provision about which I wish to speak is the repeal of the Appeal Costs Fund Act 1979. That Act, passed in 1979, has remained unproclaimed for about 19 years. The Act established a fund to indemnify parties in appeals in courts, or proceedings in the nature of appeals, who suffer loss by reason of an error of law on the part of the court or tribunal.

Under the Act, a fund was also to be established to indemnify parties to either civil or criminal proceedings where those proceedings were aborted due to the death, illness or retirement of a trial judge and where in other circumstances a trial had to be aborted. Fortunately, there have been few occasions in this State when proceedings have been aborted by reason of the death, illness or retirement of a trial judge. Ordinarily, in relation to retirement, appropriate provisions are made for the judge to dispose of the matter, and I believe that the legislation specifically enables that to

occur. The tragic death only recently of His Honour Judge Pirone highlights the possibility that he may well have had cases that were unresolved or reserved at the time of his death. In those circumstances, the parties will have to commence those proceedings again, and a great deal of costs may well have been incurred, costs which may not be recoverable. It is certainly the case in many jurisdictions that the State pays the costs or indemnifies the parties in respect of untoward events of that kind.

If the Appeal Costs Fund Act had been proclaimed and if it had been set up and funded in the manner in which it was originally intended, that fund would have provided a source of redress for someone adversely affected by such a tragic and untimely event. There are a number of jurisdictions where similar provisions apply. There are cases when judges make an error of law which through no fault of the parties does result in great loss to them. It may be a party who has been brought before the court unwillingly and does not wish to be there and who by reason of an error of law is forced to incur costs which under our common law rules are never ordered against the judge or tribunal that makes the error. It was a measure that was well founded in principle, and I believe it is a matter for regret that it was never implemented nor sourced with funds. I am not entirely sure that I agree with the suggestion that the Act was fundamentally flawed in today's climate, nor am I overly convinced by the argument about the wealthy appellant who might appropriately benefit from the fund.

Of course, I accept that in the 19 years since this law passed there has been a greater contribution of legal aid and a more ready availability of such. The repeal of the Appeal Costs Fund Act is a matter for some regret, but unless the Government was able to find the funds to appropriately resource the fund it was better that the issue simply not be taking up space in the statute book.

There are only a couple of other measures in this Bill I would mention and indicate my support for them. The first is the provision to amend section 42(3) of the District Courts Act. That Act makes specific provision for orders that a negligent or incompetent legal practitioner pay the costs of the whole or some part of proceedings. However, the section specifically provides that the court cannot make an order for such costs until the conclusion of the proceedings. Very often in practice it is better for costs orders to be made at the time of the neglect and when the matter is fresh in the minds of the judge and the parties so that it can be disposed of once and for all. It is notorious that litigation very often takes many months, and over the course of months it is easy at the end of proceedings to forget costs orders that should have been made at a particular juncture, but the course of events is no longer fresh in the memories of the participants of the litigation at the time when the action is concluded.

The restriction of the words 'conclusion of these proceedings' should be removed. The court should have the opportunity at any stage of the proceedings to make an appropriate order against a negligent or incompetent legal practitioner because there are cases—not many, I must say—in which any legal practitioner who has been involved will tell you where it is appropriate that a practitioner be ordered to pay the costs if, as a result of some wanton neglect on his or her part, all other parties are inconvenienced. I certainly support that measure.

Another matter I also strongly support are the amendments we made to the Magistrates Court Act to enable parties with a claim over the sum of $5 000 to consent to the court having the power to deal with a matter over that amount as if it were a minor civil action or matter, or small claim, so as to enable the parties to dispose of the matter expeditiously, quickly and with all the benefits that apply to minor civil actions in the courts—less formality, less cost and greater expedition. It is commendable that this amendment be introduced to give greater flexibility and adaptability.

Finally, I note that the Bill amends the schedule to the Summary Offences Act by making it clear on the face of a general search warrant that the particular warrant has a specified duration. This highlights the fact that it is so easy in legislation to overlook points that have great significance in practice. The fact that the form of a general search warrant, prescribed in the schedule to the Summary Offences Act, did not on its face make clear the period in respect of which it had validity was a serious oversight on the part of the Parliament and also all concerned. It is easy enough for these things to occur and it is good to see that in this portmanteau Act that error is being redressed and our system of general search warrants will continue to act appropriately. I support the second reading.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

ASER (RESTRUCTURE)(MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 May. Page 1199.)

The Hon. L.H. DAVIS: I support the second reading of this Bill. The aim of the legislation is to simplify the management of the constituent parts of the so-called ASER—the acronym for Adelaide Station and Environs—development. The ASER development consists of the Adelaide Casino, the Hyatt Hotel, the Adelaide Convention Centre and the Riverside Office Centre. It also includes common areas and other shared facilities. The restructuring made possible in this legislation will assist in the preparation for sale of three of those four constituent parts of ASER, namely, the Adelaide Casino, the Hyatt Hotel and the Riverside Centre. The Adelaide Convention Centre is being retained in public ownership and it is shortly to be upgraded, being the cornerstone of the exciting river bank precinct development.

The history of ASER is long and complicated. It is sad and costly. We have to go back 16 years to 1983 when then Premier John Bannon returned from Tokyo, waving a piece of paper in his hand like some latter day Neville Chamberlain, and excitedly explained that he had an agreement with Kumagai Gumi, one of Japan's biggest property developers, in conjunction with the South Australian Superannuation Fund, to develop the ASER site. Kumagai Gumi subsequently fell on hard times and, since 30 June 1998, Fund South Australia, which is the successor to the South Australian Superannuation Fund, has been the sole owner of the ASER structure.

The original organisational structure was unbelievably complicated and, not surprisingly, led to extraordinary operational and definitional inefficiencies. The ASER development is one of the great scandals of the Bannon Government. There is no question that the State and the superannuation fund, which had a 50 per cent interest in the ASER project, lost tens of millions of dollars. Sadly, the

project is an enduring reminder to bureaucracy, mediocrity, financial bungling and union power.

We have in ASER an unremarkable collection of buildings which, if the project had been handled differently, could have been a wonderful architectural monument in Adelaide. The good news about the ASER project is that the Adelaide Casino, which was constructed in the refurbished Adelaide Railway Station, was developed in excellent fashion. The Hyatt Hotel in scale and design was inappropriate for the site; the Riverside building in colour and size was extraordinary; and the Adelaide Convention Centre, which undoubtedly is one of the finest and most practical convention centres in Australia and which enjoys a well-deserved reputation, is unremarkable in many respects in terms of its architecture.

The way in which this project was run is a monument to how Governments, without economic and financial training, can come unravelled. Premier John Bannon showed consistently during the course of this project, which ran over budget and over time, how naive he was in commercial matters. The project was budgeted to cost $160 million: it ended up costing $344 million—an overrun of some $180 million.

The office building ran nine months behind time, the hotel was completed 17 months behind schedule and, most scandalously, the hotel cost was double the budget—$160 million versus $80 million. The office building was meant to be salmon pink. In fact, Baillieu Knight Frank, which was the sole leasing and management agent of the ASER office building, published a comprehensive full colour photograph and background details of the office building in salmon pink—but it turned out to be grey. As we look at this final chapter in the ASER story—

The Hon. T. Crothers: Are you sure it wasn't a blue?

The Hon. L.H. DAVIS: The Hon. Trevor Crothers, as always, is quick with an interjection. The Riverside building may have been grey but it was yet another ASER blue was his interjection—and that of course is correct. It is worth remembering that when Premier Bannon announced this project in October 1983 he committed the Government to subleasing from the ASER Property Trust, whose joint partners were the South Australian Superannuation Fund and Kumagai Gumi, the 3 000 seat Convention Centre and the 800 space car park and, in addition, 30 per cent of the public area—all for a rental of 6.25 per cent linked to the capitalised cost of those facilities and adjusted annually for inflation.

When the cost of the Adelaide Convention Centre car park and public areas blew out by 67 per cent—from $46 million to $77 million—the Government's rental automatically escalated by that amount. In addition, the Government committed itself to guaranteeing the sublease of 11 000 square metres (or 50 per cent) of the proposed Riverside Centre office building for a period of 10 years, and that period is now just coming to an end.

The ASER story is one of the many low points of the Bannon Government. I am pleased to say that this Bill, which facilitates the restructuring of what was an extraordinarily complex structure, will also facilitate the preparation for sale of those constituent parts of ASER, namely, the hotel, the Casino and the office building. The Public Actuary, Mr Ian Wiese, who was chairman of the ASER trust and who was well-deservedly controversial and much criticised by me in this Parliament on more than one occasion, once told a select committee that the valuation of ASER in the books of the superannuation fund could be justified by the fact that the Hyatt Hotel and the Adelaide Casino were one business unit, that they had an interaction and depended on each other. Needless to say, the experts disagreed, and those units no doubt will be sold separately in due course.

I hope that the Government recovers a reasonable price for the Casino, which has come under vigorous management and is trading profitably much to the credit of its management; and hopefully the office building and the Hyatt Hotel will be sold for good prices, bringing to an end this sorry saga from the 1980s and yet another example of the gross mismanagement of 11 years of Labor rule.

The Hon. P. HOLLOWAY: The Opposition supports the Bill. Before I make some brief comments on the Bill—I do not wish to say much—I would like to make one point following on from what the Hon. Legh Davis said: that is, one might hope that Governments would learn from this. Given what is now happening with the EDS building, perhaps the Government of which he is a member has not learnt any lessons. However, we can discuss that later.

In effect, this Bill mops up the provisions of the ASER (Restructure) Bill, which we dealt with in 1997. That Bill dealt with the major unravelling of the complex arrangements in respect of ASER. When that Bill was debated, these matters were discussed in detail, so I do not think we need to go over them. As I said, this Bill mops up a few unforeseen matters which were left over from the previous Bill: it is like a final tidying up.

The 1997 Bill sought to restructure the ownership arrangements in respect of the ASER complex. That complex, as has been pointed out, consists of the Casino, the Hyatt Regency Hotel, the Convention Centre, the Riverside Centre, the Adelaide Plaza and the two associated car parks. Because that complex was built in the 1980s on and over the Adelaide Railway Station, TransAdelaide was and still is the head lessor of the site.

The Adelaide Convention Centre and the car parks are operated by the State Government. Funds SA and its predecessor, Kumagai, were the joint owners of the ASER group of companies until 30 June last year. After that date, Funds SA became the sole owner of the companies that operate the Casino, the hotel and the Riverside building. As pointed out by the Hon. Legh Davis, Funds SA is now in the process of selling these assets.

The main restructuring was provided for in the 1997 Act. I had a briefing on this with my colleague Kevin Foley. It was felt that a few items needed some final tidying up, and essentially those matters are outlined in this Bill. The occupiers of the site require a regime that will guarantee a continuing right of support for their buildings and the common area.

Some of these facilities are shared by various parts of the ASER complex. So, there needs to be a process to enable decisions to be made regarding the operation of those joint areas. Essentially, this Bill is about clarifying those rights, providing a regime which will enable any disputes to be dealt with adequately, and smoothing over the sale process so that, if any issues arise as a consequence of the complex ownership of these buildings and the joint areas that are involved, they can be resolved under this legislation.

The Opposition supports the measures in this Bill that will enable that to happen. It is noted that, for instance, proposed new section 20A has a sunset clause that will end on 30 June 2004. This new section will make the corporation responsible for providing a formal means of communication between the stakeholders and the agencies responsible for the implementation of the Riverbank Precinct Master Plan.

These are some of the issues which have arisen since this matter was dealt with in 1997 and which need to be tidied up. The Opposition believes that there is no point in delaying the process and that, the sooner this Bill is passed and these matters are resolved, the better for all concerned. The Opposition supports the Bill.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

The Hon. CAROLINE SCHAEFER: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

LOCAL GOVERNMENT BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 996.)

The Hon. T.G. CAMERON: I note that the Hon. Legh Davis is in the Chamber today, so I will keep my contribution brief, in case he gives me a bit more stick for my flower farm contribution on a previous occasion.

I happily support the second reading of this Bill. I will not be making any other contribution at this stage: I will deal with my concerns about the Bill during the Committee stage. I understand that the Opposition spokesperson, Pat Conlon, is very keen to talk to me about the Local Government Bill, so I will not be arriving at any final decision until I have had the opportunity of listening to his wise counsel on the matter.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

[Sitting suspended from 5.55 to 7.45 p.m.]

RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1554.)

The Hon. K.T. GRIFFIN (Attorney-General): I thought it appropriate to reply but indicate that the Committee consideration of the Bill can be made an order of the day for next day of sitting; but, if I reply, members will have an opportunity to note my attitude to several of the issues which have been raised. I thank honourable members for their contributions on this measure. A number of issues were raised during the second reading debate. The Hon. Mr Gilfillan raised an issue, which is not strictly relevant to this debate, about retail tenants not having the same rights in respect of security bonds as have residential tenants. I take this opportunity once again to point out to the Hon. Mr Gilfillan that in a retail tenancy a bond may be up to $20 000.

To suggest, as Mr Gilfillan does, that such a large sum of money should be paid into a fund with the tenant having no option of providing instead something like a bank or director's guarantee which will result in no dead money being locked away for the duration of the lease, shows how the Hon. Mr Gilfillan lacks an understanding of the way in which retail tenancies operate. No tenant can afford to have substantial sums of money tied up in the way the honourable member would want.

The next issue raised by the Hon. Mr Gilfillan concerns the ability of a person to take action for damages for personal injury in a court of competent jurisdiction. The amendment proposed certainly does not limit that right. All it does is to make clear that such action cannot be taken in the Residential Tenancies Tribunal. Other courts retain their jurisdiction and are better fitted for the determination of such issues.

The Hon. Carmel Zollo raised several issues, the first of which concerned the proposed new section 110 and its interrelationship with section 101. As the honourable member points out, the changes to section 110 are administrative only. The Residential Tenancies Tribunal has no bank accounts and handles no moneys. Where the tribunal orders the payment of moneys—for example, the payment of rent pending the completion of certain work or for some other reason—it is considered appropriate for the moneys to be paid to the commissioner and from there into the fund. It is simply a matter of proper accounting for money received.

Section 101 cannot be used as a mechanism for paying out those moneys, as it is a provision which allows for the spending of the income to the fund, not the capital sum. In respect of moneys ordered to be paid into the fund by the tribunal until the happening of an event or the undertaking of certain work, it is the sum itself which is repaid, not the interest upon it.

The honourable member raises the issue of a New South Wales Supreme Court decision regarding damages for personal injury and whether any matters have been brought before our Residential Tenancies Tribunal on this topic. I am able to inform the honourable member that this issue was raised with me by the presiding member when she became aware of the implications of the New South Wales decision. For the benefit of the honourable member, the decision in New South Wales concerned the failure of a landlord to attend to urgent repairs to premises, forcing the tenants to relocate. A claim for compensation for personal injury was made, and the Supreme Court held that the tribunal in that State did have power to award compensation.

I checked with the tribunal's office as to whether or not applications for damages for personal injuries have been made to the Residential Tenancies Tribunal in this State, and it appears that such applications have not been made. It is important to note that these amendments do not limit the right to make such claims: they simply provide that they cannot be made in the tribunal. There are other courts which deal with such matters.

The honourable member also points out the differences in terminology for landlord and tenant, between the abandoned goods sections of the Landlord and Tenant Act, the Retail and Commercial Leases Act and the Residential Tenancies Act, as amended by this Bill. That is, of course, a drafting issue arising from the whole structure of each of the Acts.

The next issue raised by the honourable member concerns section 90, the provision which allows a landlord or a third party to make application to the tribunal for the termination of a tenancy if the tenant has used, caused or permitted the premises to be used for an illegal purpose, caused or permitted a nuisance, or permitted an interference with the reasonable peace, comfort or privacy of another person who resides in the immediate vicinity. The honourable member proposes an amendment to prohibit a landlord from entering into a new tenancy with the tenant in relation to the same premises for a period of six months.

The present situation with respect to section 90 applications is that, when a landlord joins with third parties or is the applicant under section 90, the landlord clearly wants the tenancy to end and, in the usual course, if the tribunal orders

the termination of the tenancy, the landlord would enforce the order to vacate the premises. However, if the landlord is not a party to the proceedings or does not want the tenancy to terminate, in the event that an order to terminate is made, the landlord may chose not to enforce the order. If the landlord is satisfied with the tenant or if the landlord is satisfied that the tenant's future behaviour will be different, the landlord is not placed in the situation where he or she is forced to end the tenancy. However, the honourable member's amendment will force the end of the tenancy. The Government is of the view that the tribunal should not make an order under section 90 at the very minimum without hearing from the landlord. The Government is further of the view that, if the landlord wants a tenancy to continue, that should be the right of the landlord.

Before completing this response I foreshadow two amendments which have been placed on file. The first concerns issues which arise when a corporation is a tenant. This situation occurs when a company rents premises to be used as a residence by an employee; a private person lives in the residence and for all intents and purposes a residential tenancy agreement is in existence; and a security bond is lodged with the Commissioner of Consumer Affairs, but the tenant's name on the agreement happens to be that of a company. In that situation the Residential Tenancies Tribunal is bound by a decision of the Supreme Court, which has determined that a company is not capable of residing in premises to which the Act applies and cannot form a residential tenancies agreement. If the landlord applies for vacant possession of the premises or for a refund of all or part of the bond money lodged by the corporate tenant, the tribunal has to decline jurisdiction and the matter has to be sorted out in other courts. The Presiding Member of the tribunal has suggested that this matter is best dealt with by an amendment which is similar to the provision in the New South Wales Act which, in determining jurisdiction, looks at whether the premises are used or intended to be used as a residence by a natural person.

The second amendment I foreshadow concerns the application of the Act to premises owned by the Aboriginal Housing Authority. The South Australian Aboriginal Housing Authority was established as a statutory corporation under the Housing and Urban Development (Administrative Arrangements) Act 1995 by the Housing and Urban Development (Administrative Arrangements)—South Australian Aboriginal Housing Authority regulations 1998. The regulations were gazetted on 22 October 1998. The creation of an Aboriginal housing authority has been discussed since 1973, and I am pleased that the Aboriginal Housing Authority has at last come into existence and is able to have vested in it approximately 1 800 properties, which have until now been owned by the South Australian Housing Trust and operated by the trust's Aboriginal funded unit.

The Residential Tenancies Act requires amendment to enable the Aboriginal Housing Authority to have the same status under the Act as has the Housing Trust. The amendments involve section 5(2) of the Residential Tenancies Act. That subsection now provides that only certain provisions of the Residential Tenancies Act apply to residential tenancy agreements under which the Housing Trust is the landlord to residential tenancies arising under those arrangements and to related tenancy disputes. It is proposed that section 5 of the Act be amended to provide that the same provisions of the Act will apply to residential tenancy agreements under which the Aboriginal Housing Authority is the landlord as currently apply to residential tenancies where the Housing Trust is the landlord.

I am conscious that there have been two other speakers today on the second reading of this Bill. If they have raised issues to which I have not responded in this general second reading response I propose to pursue those matters—if there are any—during the Committee consideration of the Bill.

Bill read a second time.

STATUTES AMENDMENT AND REPEAL (JUSTICE PORTFOLIO) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1555.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their contributions to the debate and also for their indication of support for this Bill. As the Hon. Carolyn Pickles has noted, this Bill is relatively uncontroversial in that it makes only a number of minor amendments to a number of Acts. I should say that there are some amendments which I have placed on file and which arise from a consideration of the references to authorised officers, parole officers and other officers in various legislation which comes under the Justice portfolio. It has been deemed appropriate by me that this issue be resolved so, during Committee consideration of the Bill, some extensive amendments will be moved, but I doubt that they will be controversial.

Bill read a second time.

STATUTES AMENDMENT (NATIVE TITLE No.2) BILL

Adjourned debate on second reading.

(Continued from 10 December. Page 475.)

The Hon. SANDRA KANCK: It is appropriate that I begin my contribution to this debate with an acknowledgment that we in this Parliament are on Kaurna land, land from which the Kaurna people were dispossessed by representatives of Britain and by British law. British law held New Holland to be *terra nullius*, a land without people. It sanctioned the complete dispossession of the traditional owners of the land. It was grounded in the notions of racial superiority prevalent in the eighteenth century. That law was wrong—wrong on the facts and wrong in principle.

Australia was not a land without people, nor were Aborigines a people without law. The recognition of native title by the High Court in Mabo No.2 swept aside the legal fiction that pre colonial Australia was *terra nullius*. It was a decision with profound legal and moral implications. Yet immediately the clamour began: restrict it; narrow it; ignore it; extinguish it. The Patterson's curse of land title had apparently struck Australia. It was time to panic. The wisdom of the racists was that it had to be eradicated before rural Australia was laid to waste. Vested interests continued to whip regional Australia into a cauldron of hysteria with a subsequent High Court Wik judgment. Politicians played to the gallery; bucket loads of extinguishment were promised; fear was encouraged; facts were ignored.

The result is now before us. I am profoundly disappointed that with this Bill the South Australian Government has bowed to the hysteria and the vested interests. This native title Bill is racist—make no mistake. It is racist because it treats the form of land title traditionally held by Aboriginal

people in a way that is demonstrably inferior to all other forms of land title in this country.

In any amendments to the existing Acts, the Democrats believe that there is a need for fairness and justice. It is absent from this legislation, just as it was absent from the Federal legislation on which it is based. Twelve months ago the Federal Government was threatening to take the nation to a double dissolution election if it did not get its own way over the contents of its amendments to the Native Title Act—Howard's so-called 10 point plan.

The Prime Minister was willing to risk a divisive race election to provide the States with the power to diminish native title. In the end he succeeded in getting the amendments he wanted without having to go down that path. The amendments to the Federal Act enable the States to get around section 109 of the Federal Constitution. Should a State Government wish to further reduce native title it can, provided that it has parliamentary support.

The legislation we have before us shows us that this current Government in South Australia does indeed wish to water down native title. Well, that is certainly not the wish of the Democrats—and I hope it is not the wish of the Labor Party or the Independents in this Parliament. The fact is that the passage of Howard's 10 point plan last year has not required State Governments to do a thing. We are not like Western Australia which had no regime in place: in late 1994 and early 1995 we dealt with the State response to the Mabo judgment.

The need for certainty is often cited as a primary reason for whittling away native title, but what certainty and for whom? Mining companies and some pastoralists want the certainty that native title is extinguished. They want the certainty that they will not have to share title or negotiate with Aborigines. They want the certainty of a pre Mabo world, a world based on lies. Jesuit Priest, Father Frank Brennan, recognised this, and I quote, saying:

> Some pastoralists do not want only certainty. They want more. They want to be able to expand their pastoral lease title which did not necessarily give the right of exclusive possession into something akin to freehold.

I wonder just what part this desire has played in the formulation of the South Australian Government's response to the revised Federal Act. If certainty is the catchcry, we should be clear about the effect of the Wik determination. Wik held that native title exists on pastoral leases only so far as it can co-exist with the terms of a lease. Should the two be incompatible, native title is the one that falls over. That is not a bad deal for the pastoralists, but some of them want more. If certainty is the catchcry, why is certainty to be provided for the select few pastoralists in this country, such as the Sultanate of Brunei, who has no love or loyalty for this country, or the absentee landlords of the Kidman empire who have a loyalty only to their shareholders?

Why should they be given greater priority and respect than the original inhabitants of this country, and why is this State Government prepared to conspire to advance this situation for a select few? The Democrats are particularly concerned about what the State Government proposes to do with intermediate period Acts and, although the proposal is entirely consistent with the Federal Act, it does not make it any less objectionable. When the original native title laws were passed by Federal Parliament, two types of actions were described in regard to Aboriginal land—past and future Acts. The past Acts were those which had occurred up to that time and which had effectively become invalid because of the declared existence of native title.

At the time those actions occurred, there was no knowledge of a legal form of native title, so Parliament (via the Native Title Act) retrospectively validated them. It was naturally assumed by all of us that any future Acts would not be allowed to contravene the Native Title Act but, between the passage of that legislation in 1993 and the introduction of the new amendments in 1997, the Queensland and Western Australian Governments transgressed by granting land in contravention of the Federal Native Title Act. In particular, the Goss Labor Government in Queensland illegally granted up to 800 tenements, and when the amendments came before Federal Parliament in 1997 the Labor Party wanted to protect their mate 'Gossie', so the Federal Opposition rolled over.

Despite the fact that the Goss Labor Government had been acting illegally, the Liberal-Labor Coalition in Federal Parliament acted together to let all these so-called intermediate period Acts through. Perhaps the saying about there being honour amongst thieves applies here. Effectively, the Labor Opposition in Federal Parliament licensed the States to act illegally and immorally. I have been told that the Labor Party in this Parliament is set to agree with the Liberals on this same aspect with the State legislation. I hope that this is not true, and I urge them not retrospectively to approve illegal and immoral actions.

I understand that some pastoralists are on extremely marginal land and have long coveted the notion of expanding the range of activities permitted on their leases, but I see no need for this to be codified in legislation. That diversification has been able to occur up until now. There are pastoralists, for instance, who act as tour guides on their properties. I recall seven or eight years ago staying with my husband in shearers' quarters on a pastoral property that we used as a base while exploring the Flinders Ranges. I had no problems with that, and if they were able to make a few more dollars by such an activity I certainly will not quarrel with that. But to formalise this diversification of activities on pastoral leases has the potential correspondingly to diminish native title, and it should be resisted.

The one positive clause of this legislation is preservation of the right to negotiate. This was put in place in the State legislation in 1995, coming into effect in June 1996. The Federal Act has a diminishing hierarchy of the right to negotiate, the right to object and the right to be consulted, and it is to the credit of the State Government that the right to negotiate is upheld in this Bill. But having congratulated the Government on the only positive I can find in this Bill, I was considerably taken aback to find in documentation forwarded to me last week by the Attorney-General's office and prepared by the Native Title Unit of Crown Law that this one positive may now be watered down.

Furthermore, the Democrats believe that the right to negotiate should also be imposed on the petroleum industries. Under this Bill, the world's oldest recognised form of land title will, in certain circumstances, be extinguished by short-term leases that have long ceased to exist. Hence, a lease to hunt and skin rabbits granted last century and soon abandoned extinguishes customary law thousands of years in the making. Indeed, as the Federal Act stands, the grant of land such as that granted to Ophix in the Flinders Ranges, land which was never used for its intended purpose, would be deemed to have extinguished native title.

When the Miriuwung and Gajerrong decision was handed down in November last year, Justice Lee ruled that, in

particular cases, such as the type listed in schedule 1 part 5 of the Federal Act, native title has not been extinguished. The example given was a proposed tourist resort at Lake Argyle in Western Australia, in which the State had the intention of extinguishing native title. But the intention to extinguish was conditional on the resort being built, and that did not occur. Is our State Government about to ignore the ruling of Justice Lee? I wonder what legal costs the taxpayers of South Australia will have to fork out as challenges occur in this regard.

This Bill also envisages that an agreement can be made between native titleholders and a mining company to allow for both exploration and production in the one set of negotiations. This is known as a conjunctive agreement. The downside of conjunctive agreements is that it will allow the ERD Court to anticipate conditions without even knowing exactly where the mine will be located. It is also worth while noting that the great majority of exploration leases do not result in mining production. I indicate that the Democrats are not particularly happy with the generality of the provisions in this Bill in regard to conjunctive agreements. I am aware that the petroleum industry is interested in conjunctive agreements as their exploration hole becomes the appraisal hole becomes the development hole, and so there might be some sense in a conjunctive agreement for that part of the mining industry. If this part of the Bill is there to satisfy the petroleum industry, why is it not possible to identify conditions which are appropriate for the petroleum industry?

In the documents from the Native Title Unit to which I referred earlier, it appears that the Government is bending still further to pressure from the mining industry. Most exploration licences are issued for terms of six or 12 months and when they expire the company must go through the whole process again if it wants to do more exploring in that area. But it appears that the Government is now considering allowing another form of conjunctive agreement whereby a company could get extensions of the exploration licences as part of these conjunctive agreements up to a total of five years. It seems that the more time the Government spends consulting the worse this legislation is likely to get.

The issue of the amount of compensation payable on acquisition will need to be considered carefully because of the limits set using freehold valuation. There are bucket loads of injurious affection in this. This is in the Federal Act, but whereas that Act at least refers to this occurring on 'just terms' the State Bill does not have this reference. Again, if the Government does not get it right, the South Australian taxpayer could be up for lots of money. Where compensation is payable, the Federal Government will meet 75 per cent of the costs and the State Government 25 per cent. I wonder whether the Attorney-General has an estimate available of how much he thinks the South Australian taxpayer might be asked to bear in the future. Somehow it seems to me that it might be a lot cheaper if native title were not extinguished. The amount of money we could be expected to fork out is likely to be an enormous cross subsidy to the pastoralists and miners in this State.

I know that there are members in this Chamber who describe themselves as Christians and, further to that, some who are practising Roman Catholics. It is important, therefore, that I draw the attention of members to the comments of Leonard Faulkner, the Archbishop of Adelaide, in his Christmas 1993 pastoral letter. Although he was speaking at that time about the Mabo decision, he might have been speaking about the legislation before us when he said:

> . . . it is clear that justice requires that the process of reconciliation involve negotiation towards a proper compensation.

At the very least I would hope that those practising Christians in this Chamber would see their way clear to agreeing that compensation should be on fair and just terms. South Australia has native title legislation in place which was passed between late 1994 and early 1995, and the Attorney-General has boasted on a number of occasions how good this legislation is. That, combined with the observation I made earlier that last year's Federal amendments do not require the States to do anything, means that there is no need for any further amending legislation in South Australia. This Bill is even worse than last year's Federal legislation. It creates division when we should be moving towards reconciliation. It is a backward step for race relations in this State, and for those reasons the Democrats will oppose the second reading.

The Hon. M.J. ELLIOTT: I will make a brief contribution to this debate; I think Sandra Kanck has covered the most important points. I refer to a State which, relative to other States in Australia, used to be the fairest, most humane and most reasonable on issues in relation to Aboriginal people. I must say that I am quite appalled that any pretence at fairness is now disappearing. I do not know how many members in this place have ever read a copy of the Letters Patent in relation to the first establishment of this colony, but I will read it into the record as its contents should not be forgotten. I will read from a copy of the Letters Patent passed under the Great Seal of the United Kingdom, erecting and establishing the Province of South Australia and fixing the boundaries thereof, dated 19 February 1836, as follows:

> WILLIAM THE FOURTH by the Grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith TO ALL TO WHOM these presents shall come greeting
>
> WHEREAS by an Act of Parliament passed in the Fifth Year of our Reign entitled 'An Act to empower His Majesty to erect South Australia into a British Province or Provinces and to provide for the Colonisation and Government thereof' after reciting that that part of the Australia which lies between the Meridians of the one hundred and thirty-second and one hundred and forty-first degrees of East Longitude and between the Southern Ocean and twenty-six degrees of South Latitude together with the islands adjacent thereto consists of waste and unoccupied lands which are supposed to be fit for the purposes of colonisation and that divers of Our Subjects possessing amongst them considerable property are desirous to embark for the said part of Australia and that it is highly expedient that Our said Subjects should be enabled to carry their said laudable purpose into effect it is enacted that it shall and may be lawful for Us with the advice of our Privy Council to erect within that part of Australia which lies between the Meridians of the one hundred and thirty-second and one hundred and forty-first degrees of East Longitude and between the Southern Ocean and the twenty-six degrees of South Latitude together with all and every the Islands adjacent thereto and the Bays and Gulfs thereof with the advice of Our Privy Council to establish one or more Provinces and to fix the respective boundaries of such Provinces NOW KNOW YE that with the advice of Our Privy Council and in pursuance and exercise of the powers in us in that behalf vested by the said recited Act of Parliament We do hereby erect and establish One Province to be called the Province of SOUTH AUSTRALIA—And we do hereby fix the Boundaries of the said Province in manner following (that is to say) On the North, twenty-sixth degree of South Latitude—On the South the Southern Ocean—On the West the one hundred and thirty-second degree of East Longitude—And on the East the one hundred and forty-first degree of East Longitude including therein all and every the bays and Gulfs therefore together with the Island called Kangaroo Island and all and every the Islands adjacent to said last-mentioned Island or to that part of the mainland of the said Province PROVIDED ALWAYS that nothing in these Our Letters Patent contain shall effect or be construed to effect the rights of any Aboriginal Natives of the said Province to the actual occupation or enjoyment in their own persons or in the persons of their descendants of any lands therein

now actually occupied or enjoyed by such Natives IN WITNESS whereof We have caused these our letters to be made Patent WITNESS Ourself at Westminster the Nineteenth day of February in the Sixth Year of our Reign.
By writ of the Privy Seal.
Edmunds.

Let me stress the following:

> . . . it was not to effect the rights of any Aboriginal Natives of the said Province to the actual occupation or enjoyment in their own persons or in the persons of their descendants of any lands therein now actually occupied or enjoyed by such natives. . .

It is quite plain that in that statement there was a perception that there was a lot of space, but there was also a perception that, indeed, native people were living in South Australia and they were occupying and using part of the land. In their ignorance, I do not think they realised that all of it was occupied and being used and enjoyed. They did not have a system of land ownership as Europeans do; therefore, they did not fence it off. However, all the land was in the use and enjoyment of the native people of South Australia. The Letters Patent, upon which this very colony was established and which is the first legal Act in establishment of this colony, made quite plain that the Aboriginal people had rights—very clear rights. Some residual rights remain. The Government is still trying to continue that process of taking away existing rights. We are continuing that. I cannot understand how any member of the Government in good conscience could ever have been behind legislation, knowing that, indeed, they are further eroding existing rights. It is an absolute outrage.

I do not know from where this legislation comes, in that I have had discussions with leading figures in the South Australian Farmers Federation, private conversations, in which they have said to me that they are quite relaxed about their legal position, that there are no genuine legal problems facing landowners. They did say that there are people who are concerned about implications, largely because of the political gains and hysteria which were not being whipped up in South Australia. I do not think members of any political Party in South Australia have been playing political games on this issue. Games were being played in the eastern States—no question about it. The farmers in South Australia were certainly seeing it in the media and were becoming concerned. Stuff that was plain outright lies was being repeated for political reasons in the eastern States and was coming here via the media.

The fact is that we do not have legal problems in South Australia. In the pastoral lands, for example, within the Pastoral Act we had no problems in terms of recognising the rights of pastoralists and the traditional rights of Aboriginal people. In my discussions with pastoralists they have never told me of having any difficulties in relation to Aboriginal access to land.

The Hon. Sandra Kanck interjecting:

The Hon. M.J. ELLIOTT: That is right—they have problems with other people going on to their land but have generally not had problems with Aboriginal people going on to their land. No problem in South Australia is being fixed by this legislation—no problem whatsoever. But here we are further moving away from what was a very clear statement at the beginning of the colony of South Australia, and that was a recognition that Aboriginal people were here and that they had a use and enjoyment and a right that they would keep it and a right that their descendants would keep those rights. I am surprised that someone like the Attorney-General, who understands the law, would ever be a party to this sort of performance. I am shocked and can only believe that he has been overruled in a Cabinet that is deeply conservative.

The Hon. K.T. Griffin: You do not understand it—that is the problem.

The Hon. M.J. ELLIOTT: I do not have any problems understanding what is happening here whatsoever. Do not tell me that I do not understand—I know precisely what is happening here. I indicated that I did not wish to speak at length, but I remind members of the letters patent. The mythology of *terra nullius* was not a mythology at the beginning of the occupation of South Australia, because the letters patent before Europeans arrived clearly recognised Aboriginal people and their rights. Those rights have been eroded ever since—the land has been stolen. It has been stolen because it went against the letters patent and, as it was stolen, legislation has over time justified that stealing.

You cannot undo history. I am not saying that we wind black the clock and that Europeans jump back into ships and go back to Europe—that is a nonsense. You cannot wind back history, but there are legitimate arguments in terms of just compensation. We are not talking about what happened 160 years ago but about what happened in the lifetimes of people in current existence, people currently alive. But, to take it even further and to further erode existing rights—something the Attorney-General on many occasions rants against in this place—damn it all, that is exactly what we are doing at present.

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

GEOGRAPHICAL NAMES (ASSIGNMENT OF NAMES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 May. Page 1196.)

The Hon. J.S.L. DAWKINS: This Bill amends the Geographical Names Act, which regulates the practice of naming and recording geographical places in this State. As all members of the Council would be well aware, geographical names are relied upon by all sections of the community, for a range of reasons. One of the more significant activities under the Act relates to the determination of suburb or locality names and boundaries. These boundaries are important administrative boundaries and are used extensively by the Electoral District Boundary Commission for State and Federal electoral boundaries, by the Bureau of Statistics for census collector districts and numerous other Commonwealth, State and local government agencies.

The Geographical Names Act prescribes the process that must be followed when it is considered necessary to alter suburb names or boundaries. The legislation requires proposals to be advertised in the local community and sets down a period of one month for interested parties to make representations on the proposed change. The submissions are investigated by the Surveyor General and the Geographical Names Advisory Committee and a recommendation is forwarded to the Minister for consideration. Investigations include considerable consultation with appropriate local and State Government authorities to ensure the views of the community and other stakeholders are well canvassed and recognised. If a change in name or boundaries is accepted, a

notice advising the alteration is published in the *Government Gazette*.

I support this process as a means of properly assessing suggested changes of locality names. However, I am aware of somewhat frivolous attempts to change names in various localities in South Australia. In one case of which I am aware this has involved considerable reinvention of history to support a case for partial renaming of a district. Geographical names are important to the communities to which they refer. Therefore, it is vital that the open and consultative process which I have outlined be maintained, particularly when minority groups seek to change a name for selfish reasons. However, it is often necessary to make amendments to suburb and locality boundaries as a result of changes in road alignments and property subdivision to ensure that they continue to follow relevant and identifiable boundaries. I suppose a recent example of this is the alteration of the boundary for the Adelaide Airport suburb following the realignment of Tapleys Hill Road.

The current legislation makes no distinction between the process that I have outlined for large sections of a community and the process for making a minor change. In a recent process of updating the State's property maps, a number of areas have been found in which, as a result of changes in road alignments and land subdivisions, suburb boundaries no longer follow recognisable property boundaries. These anomalies are generally minor and involve only a small number of properties. However, they do affect a number of people and it is important that they be addressed. This amendment provides a streamlined approach to resolving such anomalies.

Instead of advertising the proposals which, on the face of it, would be minor and non-contentious, direct contact will be made with the relevant local government as well as emergency service organisations and the property holders who will be affected by the change. The results of such consultation will then be reviewed by the Surveyor-General and the Geographical Names Advisory Committee and a recommendation forwarded to the Minister for consideration. If the change is approved, it will be published in the *Gazette* in the normal manner. However, if this consultation results in a determination that the issues being investigated impact on the wider community, the proposal will be advertised and processed in the normal manner.

Adopting the procedure outlined in this amendment will improve the efficiency and reduce the time and cost of making minor alterations to suburb or district boundaries without compromising the current level of community consultation. As I said earlier, I support the process that has been used when there are major changes to be made or when it has been suggested that changes be made. However, I think that the amended process is a very sensible one, and I commend the Minister for the initiative and support the legislation.

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

LOCAL GOVERNMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1557.)

The Hon. IAN GILFILLAN: In speaking to this Bill, which I am given to understand is the largest piece of legislation in volume that has ever come into this place, I do have a prepared speech which I intend to give to the Chamber but I want to start my contribution by concentrating on what members may see as a side issue to the main bulk of the legislation, and that is the land bank proposal for the parklands. The reason that I put it upfront of my contribution is that, as we have observed, legislation can be changed and it frequently is, and it can quite often go through dramatic changes in the course of several years and certainly in the course of several decades.

However, the history of the parklands is somewhat different and we have found, and a lot of us lament, that where areas of the parklands have been alienated, that is far more inflexible than legislation that may come through this Parliament and far harder to repeal or amend, hence we are suffering now the penalties of bad mistakes and bad decisions in how to use what were dedicated parklands 140 to 150 years ago, and it is imperative that we do not expose ourselves to the same irresponsible misuse of parklands area. On the surface, the proposal in the land bank scheme is that there will be a minimal reduction of so-called alienated land in a transaction from 1:1.1.

This is the sort of ratio of supposed benefit in actual land area. But, to use an analogy that came to me when I was thinking about it today, it is rather similar to saying to someone from whom you have cut off and taken their ear, 'I will give you your ear back if you let me chop off your finger.' It is sort of like, 'I am doing you a good turn in exchanging what I took before for something that I will take now.' Honourable members must understand that when that finger is taken, or that swap is done, it will never be reversed, because the trade will mean that an area, supposedly no longer needed by the Government as an alienated area, will be swapped for an area on which there will be a development. Development can cover an enormous range of projects and, obviously, they will be projects of substance, with material impact on the area and, once these projects are completed, as we have seen with the university and other hard fabric developments, they are never rolled back.

This is the most dangerous step regarding the parklands that has been before this place—in fact, before the people of South Australia—as long as I have been in Parliament, and it is deceptive in its presentation. The palaver that comes forward to promote it is on the sophistry that the Government is being overly generous in returning what it took, or what a previous Government took, some years gone by, as if to return ill-gotten gains is suddenly a wonderful virtue for which the giver will be rewarded by being able to take some more, without there being any determination of where that bit will be. The people of South Australia will not be consulted as to which bit the Government will take for its development in exchange for land that it pinched from the people of South Australia generations (and maybe, in some cases, not so many generations) ago.

The Hon. T.G. Roberts: Well, you've got your hearing back, but you can't pick your nose.

The Hon. IAN GILFILLAN: I've got more than one finger. The Hon. Terry Roberts, I am certain, is taking this matter a lot more seriously than his interjection might indicate, because I know that he profoundly cares for the parklands. This is a very much Johnny-come-lately amendment. I believe that it was an attempt by some well-intentioned people to do something, but it was so misguided in its original concept, and now its implementation, that, I repeat, it is the most dangerous piece of legislation relating to the

parklands, or threatened impact on the parklands, that has been before us while I have been in Parliament—and that includes the Grand Prix.

I now return to the more mundane text of my speech regarding the Bill. The Bill with which we are dealing today is the culmination of more than 12 months' discussion, consultation and negotiation. I received my copy of the Local Government Bill consultation draft more than a year ago. There followed the negotiation draft and then the Bill, which was submitted to Parliament and amended in the other place, before finally reaching us here.

While I am more than uneasy about some aspects of the Bill (to which I will return in a moment), I wish to pay tribute to the process that has led up to this debate. The process of consultation and negotiation that has taken place with respect to this Bill has been far greater and more comprehensive than for any other Bill that I can recall. The Minister is to be congratulated for taking the time to be thorough, for patiently consulting and revising the Bill and for not trying to rush the first draft through Parliament, as happens often with so many other Bills. I only hope that other Ministers follow this example and allow the community and interested parties the same opportunity to comment on legislation as has been allowed with this Bill.

Having said that, I now register my disappointment at the Government's overall plan for local government in this State. This rewrite of the Local Government Act is characterised by the approach taken by conservative Governments in Victoria in 1994, Tasmania in 1993, New Zealand in 1989 and then the UK in 1974. The approach is based on the proposition that local government will be more effective when controlled by central Government and generally directed from the centre.

The language used to sell this proposition is wrapped in terms such as 'accountability', 'efficiency', 'collaboration' and 'partnership'. However, it extends the powers of the Minister and, therefore, the Executive Government. By scanning through the Bill, I have identified 111 separate discretions that this Bill allocates to the Minister, either as personal discretions or opportunities to issue regulations.

By 'discretions' I mean the Minister's ability to exercise his authority and make critical decisions. There are a further 16 discretions in the Local Government (Elections) Bill, making 127 that I have found. I am not sure whether I have found them all, but the 127 that I have identified have been listed on my local government page on the Internet. Is this important? Does it matter? Undoubtedly, there is a role for the Minister in being a mentor for local government, but that role should not be as large, powerful or intrusive as this Bill seeks to give the Minister. Why not? To answer that question we must consider why we have local government at all. There is a constitutional guarantee of the continuance of local government in this State. Section 64A of the South Australian Constitution Act provides:

> . . . local governing bodies are constituted with such powers as the Parliament considers necessary for the better government of those areas of the State that are from time to time subject to that system of local government.

Better government is the stated goal according to the Constitution Act. That is not much guidance. What is better government? To me, better government reflects better things about our society: for example, nurture, respect, cooperation, collaboration and trust. These are things that we all acknowledge are aims of a civilian society, yet they seem to be lacking in the political process at State and Commonwealth level. Australians are profoundly disillusioned with politics. They do not believe there is much nurture, respect, cooperation, collaboration and trust between them and their elected representatives.

This is partly because there is not much dialogue between citizens and their government. There is not much opportunity for people to be in touch and communicate with their politicians from whom they feel far removed. We cannot do much to change that perception overnight. However, we can do something to protect, preserve and foster better government and better democracy—at least as far as local government is concerned—in our consideration of this Bill. In fact, it is in local government, local associations and service organisations where we are most likely to find people who have a real sense of community. These people are keen participants in the life of their neighbourhood. They have a sense of shared responsibility, of civic community—so different from the political community of Parliaments—which spills over into the quality of their civic government as distinct from parliamentary or political government.

At its best, local government entails a sense of civic community where citizens act together. They share values, common institutions, and set collective priorities through local, transparent and public processes whilst protecting and promoting the public interest. This is called local democracy. It is about dialogue, debate, consultation and differences of opinion. It is only after the various shades of opinion are invited, heard and considered that a truly democratic decision can be made. Every decision that is taken by local government using this process in consultation with the local community is a decision which reinforces the notion of a civic community. It is a decision of shared responsibility and local autonomy.

In contrast, every decision that is taken by a centralised Minister or Executive Government (remote from the community it serves) is a decision which undermines this notion of shared responsibility, civic community and local autonomy. It is a decision which undermines democracy and which, therefore, undermines good government, at least as far as the local community is concerned.

It is in this light that I urge members to examine, as have I, each of the 111 discretions referred to the Minister in this Bill. Ask yourselves in respect of each ministerial power whether it truly serves democracy, whether it will lead to better government, or whether it has been included so that the Minister or the State can direct local government to achieve their own centrally motivated ends. Of course, there is a legitimate role for the State Government in directing local government. However, the extent of that role needs to be limited if we are not to undermine local democracy and a sense of civic community.

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: I will come to that. The interjection is worth while within the scope of where local government should enjoy its own autonomy. In the first instance, it should account to the people who elected it, as do we to the people who elect us, but within a structure which is transparent, open and answerable. However, I appreciate the interjection because I do think it leads into an analysis of what, at the end of the day, will be the nature of the local government entities that come through after we have gone through this particular process. The legislation will determine for quite a long time the character of the local government in South Australia. I got quite profitably diverted.

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: That is okay. Where the State is to intervene in local government, the policy reason for each such intervention needs to be clearly defined and understood. Where we endorse an interventionist power in this Bill, we need to be able to fully justify it. When we undermine local autonomy at all, as sometimes we must, then we need to be clear about the goal we have in mind and that we regard the goal as somehow more important or persuasive than the goal of local autonomy and 'civic' responsibility. I have identified three fundamental goals which I regard as overridingly more important than local autonomy. Those goals are democracy itself, a sustainable environment and public accountability. When the implementation of local autonomy conflicts with any of these, I have no hesitation in opting for these greater goals. I will deal with each of them in turn.

First, the most fundamental goal to protect is the goal of protecting local democracy itself: that is, the ideal that the people making local decisions in local government should be only those freely and appropriately chosen by the local people whom they represent. Many of us may take that for granted. It is, after all, the only feature of local government which is specifically mentioned in our Constitution Act. However, the requirement for councillors to be 'elected' is not an entrenched part of the Constitution Act. It can be removed merely by absolute majority of the members of each House of Parliament. In contrast, the continued existence and powers of the two Houses of this Parliament are entrenched and cannot be altered without a referendum.

In his second reading speech in the other place, the Minister for Local Government said:

> This Bill seeks not to fetter councils unnecessarily, but to prescribe. . . boundaries. . . the protections which we the people require. . . in the area of local government. In that way it is very similar to a Constitution Act, such as the one which governs this Parliament, and it should be as carefully considered and as difficult to alter as our own Constitution Act is.

I wonder whether the Minister really meant what he said on that occasion. If he did, then he should have been moving the Local Government Bill as an amendment to the Constitution Act, or inserting into this Bill a provision which would entrench democracy and autonomy for local Government, as the Constitution Act entrenches it for the State Parliament.

There are no such provisions in this Bill, so it is hard not to assume that the Minister's speech on that occasion was simply rhetoric. Be that as it may, I give notice that several of the amendments I will be moving (both to this Bill and to the Local Government (Elections) Bill) are designed to promote, protect and preserve real participative democracy. When the goal of 'better democracy' conflicts with the implementation of local autonomy (as it does occasionally in this Bill), I will be supporting the goal of democracy.

Secondly, the goal of a sustainable environment deserves recognition in this Bill, as in all aspects of human endeavour. It is a notable omission from this Bill. While 'sustainability' is mentioned occasionally, in its context that one word may be interpreted as meaning merely economic sustainability. My amendments will seek to insert requirements for councils to take heed of ecological sustainability in making their local decisions. It should be an important part of every council's roles, functions and objectives. Ecological sustainability should not be merely an option or a luxury. The continuation of our existence on earth, our children's future, depends upon it. It is a goal which cannot be subverted.

Under this heading I will also be opposing the Adelaide parklands land bank provisions, which, obviously, are designed to allow further alienation of Adelaide's green lungs. In my first remarks I have spoken specifically to that. The Government's attempt to set up a land bank to permit development on the parklands is totally unacceptable. So, as I indicated, I will be strongly opposed to that part of the Bill and seeking for it to be deleted. Thirdly, local autonomy must also be subservient to the goal of public accountability. Local decision making must be open, transparent and accountable to maintain the proper sense of 'civic' community that is the hallmark of good local government. To that end, I shall be moving to insert into the Bill provisions: for a minimum standard for a council's 'public consultation policy'; ensuring that documents available to elected members are available to the public at the same time; reducing the opportunities to close meetings to the public; giving persons defamed at council meetings (or allegedly defamed) a right of reply identical to the right available for persons allegedly defamed in this Chamber; and ensuring that all of a council's public documents, policies, by-laws, codes of practice and so on are available for inspection, not merely at a distant office but also freely on the Internet.

Having addressed these three overriding goals (democracy, environmental sustainability and public accountability), I turn now to the very heart of local government's reason for existence, and that is the goal of local autonomy. As I have mentioned before, the reality is that under this Bill local government is not autonomous. Not only is it perennially under the thumb of this Parliament as constituted from time to time, with no protection in the form of a rigid constitution, but also and more objectionably it is under the thumb of the Minister of the day and the Executive Government of the day.

Most of my proposed amendments are aimed at minimising the Minister's capacity to subvert local autonomy. I cannot see the justification for the following injunctions in the Bill: any council or group of councils wishing to establish a subsidiary must first get the approval of the Minister; all council tenders, codes of conduct and codes of practice must be consistent with the principles or requirements in ministerial regulations; the Minister may exempt some matters from the provisions requiring councillors to declare a conflict of interest; a council's budget must be reconsidered during a financial year when required by ministerial regulations; when council cannot sell land to recover rates in arrears, it can apply to the Minister to get title of the land, but the Minister is not obliged to give it, although the Minister can take the land for the State Government instead; councils' powers to make by-laws can be widened or narrowed in ministerial regulations; the constitution and rules of the Local Government Association cannot be altered or revoked without the approval of the Minister; a council's subsidiary cannot sell an asset without the approval of the Minister.

These are just a few examples of the 111 occasions throughout the Bill where the Minister can dictate to councils on matters that are, in my view, within a council's responsibility. In respect of each of them, I challenge the Government to explain what greater good it is seeking to achieve by attempting to subvert local autonomy. I have closely examined what this Bill seeks to achieve and I have made clear my intent. On 17 June I distributed copies of my proposed amendments to this Bill. Although there are 13 pages of amendments, only two of them are lengthy: the 50 or so others are simple, straightforward and aimed at the specific

goals I have mentioned, that is, achieving greater levels of democracy, accountability and ecological sustainability.

I wish to thank the many people who have assisted me in this process. I express my appreciation to the Local Government Association, particularly Brian Clancy, Wendy Campana and the President, Rosemary Craddock. Other groups who have made a significant input include the South Australian Institute of Rate Administrators, Messenger Newspapers, the Environmental Defenders Office, the Ombudsman (Eugene Biganovsky), the Australian Services Union, the South Australian Retirement Villages Residents Association, the Local Government Community Services Association, and the Civil Contractors Federation; and I have also been assisted by David Mallan of Aldgate.

One person who has modestly not put his name forward for me to acknowledge is my research assistant, Shane Sody, who has worked tirelessly and very efficiently in analysing the legislation, getting across it, understanding it and helping me to evolve the amendments which I have foreshadowed. I conclude by indicating that I would be happy to discuss with any member who wishes it any of the amendments that are on file. Having recorded the important qualifications in the second reading contribution, I indicate that the Australian Democrats support the second reading.

The Hon. T.G. ROBERTS: I rise to indicate that the Opposition also supports the second reading. We also have some amendments to this mammoth Bill. The Bill comes in a package of three Bills, which is unusual for this Chamber, but we will have to handle them as a package. We will certainly be looking at any other amendments put forward by the Independents, Democrats or other members. We will certainly be talking to the Democrats about their amendments and hopefully we will be getting the support from the Democrats for some of ours.

The vexed question of reform in local governance tends to take a back seat to the debate that is currently running in relation to the republic but, in spite of the lack of publicity generated for local governance and its importance at a local level, people are probably more animated and interested in local changes than perhaps they are at the moment with the big picture.

The Hon. A.J. Redford: You're referring to a very small group of people who make lots and lots of noise.

The Hon. T.G. ROBERTS: It is one of those things. The honourable member interjects, saying that it is a very small group of people who generate a lot of heat. He is certainly right in that assessment. The reality is that, at a local level, people are interested in local government and are becoming more so as time proceeds and as the democratic process at the local level is broadening and becoming more participatory and inclusive than it was.

I would hope that this Bill adds to that renewed interest in local government and adds to the debate about change and that people start to look at the integration of the three levels of government in a way that perhaps they have not viewed it before. We have grown out of a period where only a few people were interested in running for office in local government. Their names were put forward regularly, they did not have to canvass too hard, they were rarely opposed and they formed an elite clique within small communities, and they did not have the general well-being of the communities at heart, unless it coincided with their own well-being. That was the general rule of thumb that ran through local governance probably into the early 1960s.

There was then a changed attitude to local government as development in South Australia and other States progressed and with the impact of local government decisions on people's lives through some of the issues that the Hon. Mr Gilfillan raised, such as the impact on the local economy, on jobs, on development, and on economic and environmental sustainability. Once those impacts became clearer to more and more people, local people demanded the broadening of democracy to represent their interests and to make sure that the development that was taking place—and it was mainly development rather than delivery of services that people were interested in—would occur in a fashion that they were happy with.

So, as local government started to mature and infrastructure and service delivery became more important, more people started to take notice of people who were interested in their issues, as opposed to those who were interested in their own issues. Positions in local government then became contestable. Elections were contested and in some instances people started to run tickets. That was frowned upon, particularly in regional areas where local government was supposed to be devoid of any Party political bipartisanship.

There was supposed to be a fundamental rule that you were not allowed to bring Party politics into local government elections or to bring a partisan position into the local government chambers: that was a no-no. It was pretty easy to understand the philosophical reasoning for this: the conservative elements within most communities ruled, 'Okay? Thank you very much.' They certainly did not want progressive views being brought into the chambers to be debated in any form other than the forms which they found acceptable.

South Australia is one of those few States where bipartisanship still survives and is the order of the day and Party politics is supposed to be kept outside. Unfortunately, or fortunately, depending on which view you take, that situation is changing. That is not to say that Party policy is being dragged into local council elections or into the chambers: it is just that endorsed candidates from the major and minor Parties, the Democrats, and so on are starting to appear and people are taking more interest in local government as part of the overall democratic processes.

I, unlike the Hon. Mr Gilfillan, cannot separate local democracy from broad democracy. I believe that it is all integrated. I have no fear about some of the roles—ministerial intervention, control or hand-balling, if you like—provided for under the Bill, because I think that, from time to time at some levels, State Government ministerial intervention is required to settle disputes and arguments that do occur in local issues over, in some cases, a quite minor Clochemerle-style fracas that develops from very small problems in regional communities, particularly. It does not have to be regional: it can occur in metropolitan communities where intervention from the State Minister is very helpful in straightening out issues. In fact, in many cases local people involved in some of those issues invite ministerial intervention to help them to—

The Hon. Diana Laidlaw: A bit like the Legislative Council having an overview of the situation.

The Hon. T.G. ROBERTS: A bit like that, yes; they prefer to have some sort of statesperson-like intervention to enable them to get the dividing or warring parties to see some reason around some of these issues. Some of the issues, as I said, are very small but, in other cases, they are quite substantial matters that need State guidance.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: Certainly. In cases with which I am familiar where litigation becomes a major problem in sorting out essentially difficulties that could be sorted out in other ways by using other methods, I would advise on the side of a Round Table conference using the State's apparatus in conjunction with local government, without overriding local government's principle of democracy. I think that is by far a better way of sorting out some of these problems. I certainly do not have the faith that the honourable member has about local democracy being a purer democracy than, say, a mix of State and local democracy.

In fact, in many cases the democratic processes seem to be purer, I guess, because they are local and they are less likely to be tainted by outside intervention. Sometimes it can but in the main it does not lead to a purer form of democracy than a mixture of Commonwealth, State and Federal democracy.

I think the fact that the Bill is being prepared at the moment and that it is before this Council is not in response to calls from local communities for a purer form of democracy to prevail in order to assist them to take them into the next millennium. Rather, it is more a case of a democratic process being thrown at them, if you like, with little or no debate. I think the national competition policy was developed at a Commonwealth level with little or no local input. In fact, at a State level, the States were given template legislation to invoke so that the national competition policy could be enacted through the three tiers.

So, the marriage between the three forms of government, or the linking of the three forms of government, has had an undemocratic start, being not from the bottom up but from the top down. But, given that the Commonwealth has devised a system that will lead the nation into a more constructive, positive, refined and determined economic unit, the philosophical base for States and local government to follow was born in about the late 1980s or early 1990s. As we moved into this new economic rationalism period and into a more competitive nation, it was important that all three levels of government went in the same direction.

I do not think that many of the demands that have been made for changes to the Local Government Act came from the local people in relation to the Bill that we see before us. However, I am sure that, once the Bill is finally proclaimed and put into practice, local government bodies will respond and, hopefully, pick up some of those principles that the honourable member outlined in relation to economic and ecological sustainability and, I would add, social justice through service delivery.

Democracy at a local level can play a part in improving service delivery to ensure that the dollars spent by Commonwealth and State Governments are spent more efficiently and more effectively and are not wasted through large bureaucratic service programs that perhaps in the past soaked up a lot of money before it actually hit the ground.

The Bill goes some way to solving, or at least coming to terms with, the evolving program of boundary change and adjustment. The Opposition has some amendments to the provisions relating to the facilitation panel and how it is to be formed. Again, we could use the boundary reform process as an illustration of how some local governments could not reach agreed positions between each other and where State intervention was required to achieve that. South Australia, in the main, in relation to boundary changes, has been reasonably successful in putting together packages that have been received relatively warmly, and I think in the main those boundary changes are working. I do not think that the process has stopped evolving, because I suspect that the boundary changes that we are seeing now will be the first stage of change towards economic boundaries where regions will be identified by boundaries rather than some of the geographical boundaries and some of the same interest boundaries which are now defined.

I suspect that in future the changes that come from larger Government service delivery programs will manifest themselves in better service delivery, better infrastructure spending and better returns for those local communities. There is also a linkage in regional benefits and development through the economic development boards and economic development zones that have been created. They do not play any part in local government reform within this Bill, but they do play a large part in the economic wellbeing of local government and the interests that local government represents. I would like to see this Government look at some of the provisions of this Bill in respect of economic development boards, with particular reference to some of the registered interests that apply to local government members.

In the earlier part of my contribution I noted the extra role and responsibility that people within local government now have to carry. The contributions being made at the moment by a large number of people have almost reached crisis point in relation to the number of hours they are putting in on local government, in terms of some of the problems they face. A lot of the role and the responsibilities that State Governments have traditionally carried through their own bureaucracy have been transferred back to local government. Although many people with a lot of goodwill are prepared to give up their time to provide a regional or metropolitan service to their communities, in many cases the same people who are the driving force within local communities who are acting in good faith on behalf of their communities, as I suggested in the past that may not necessarily have been the case in a broad number of councils.

The workload for those people is becoming very difficult to manage with their own personal lives and business lives. In the main, the people that you seek for local government are those who have the skills that they are practising in applying their knowledge to local governance, but their own family lives tend to suffer a little from the time, energy and effort they are putting in to local government and there needs to be a fresh look, probably in the next half decade, at the way in which members of local government are paid. I know that there is an allowance provision within the Act and maxima are provided for many of the councils, and certainly for the mayors there is an allowance which in some cases is now more generous than it has been. But those people who sacrifice their time, energy and effort to go into local government certainly would not be going into local government for the payment they get for that sacrifice. You get the argument that, if you pay too much money in allowances for elected local government members, they will be going into local government purely for the salary and not with the consideration of contributing to local communities.

There is a balance point in both arguments, and I think that State Governments must look at what is fair and reasonable in relation to the expectations of delivery back to the communities by locally elected members, and that perhaps a broadened base of democracy at a purer level may be back at a local level, where the local communities decide just how much their local government members are worth. That might

be an interesting exercise, rather than having tribunals determine that. I use that analogy light-heartedly, but it is becoming a real problem. More women are becoming interested in local government and, again, there is a time sacrifice, a family sacrifice and a contribution that has to be weighed up. With all the new roles and responsibilities in local government and the committee work and travel that goes with it in regional areas, lots of sacrifices are made that in a lot of cases go unrecognised. I am sure that this area may have to be revisited in the life of the next Government.

The package of Bills before us consists of new constitutional, corporate, operational, taxation, law making and management procedures for the local government system, including: the management of local government lands in the Local Government Bill 1999; revised and clarified provisions for local government elections in the Local Government (Elections) Bill 1999; and provisions for the staged repeal of the Local Government Act 1934 and the relocation of regulatory functions shared by both State and local government to other existing specific State legislation in the Statutes Repeal and Amendment (Local Government) Bill 1999.

The compilation of the Local Government Bill before us has taken place to overcome some of the difficulties of the framework set by amending the Local Government Act over the last 60 odd years. Certainly, those people who have to administer the Act will welcome the consolidation that has taken place within this Bill. So, we will be looking at the Bills as a package. I seek leave to conclude my contribution later.

Leave granted; debate adjourned.

ADJOURNMENT

At 9.23 p.m. the Council adjourned until Wednesday 7 July at 2.15 p.m.