LEGISLATIVE COUNCIL

Tuesday 27 July 1999

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

ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) BILL

His Excellency the Governor, by message, intimated his assent to the Bill.

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 156 and 173.

FREEDOM OF INFORMATION LAWS

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

1. Following from the recent case in Victoria where a triple murderer used Freedom of Information laws to obtain the names of nurses at a suburban hospital, even though Freedom of Information laws specifically exempt documents affecting law enforcement and public safety, by arguing that his defence over-ruled such provision, could a similar situation occur in South Australia?

2. If so, does the Attorney consider this to be acceptable?

3. (a) Has, or will, the Attorney consider introducing amendments to prevent such an occurrence in South Australia; and

(b) If not, why not?

The Hon. K.T. GRIFFIN: The Minister for Administrative Services has provided the following information:

1. The Freedom of Information (FOI) Act 1991 provides members of the public with a legally enforceable right of access to documents in the possession of the Government. However, as well as providing for access, the Act also contains a number of reasons for refusing or restricting access to documents. When determining a request made under the FOI Act, a balance needs to be struck between the rights of the individual to access documents and the need to restrict information on the grounds of personal privacy or the workings of Government.

The South Australian FOI Act closely resembles that of Victoria, in that it also enables access to documents to be refused on the grounds of law enforcement and public safety. However, the South Australian exemption is broader than that of Victoria as it relates to 'the life or physical safety of any person' and not just those involved in the administration of the law or confidential informants. The South Australian exemption can be further strengthened by the issue of a Ministerial Certificate (S.46). A Ministerial Certificate is a certificate signed by the Minister stating that the document is restricted and provides conclusive evidence that the document is exempt.

The South Australian FOI Act contains more review and appeal processes than those in the Victorian Act. In South Australia, the first stage of external review is by complaint to the Ombudsman. During his investigation, the Ombudsman may not question the propriety of a Ministerial Certificate (S.39(4)).

The second stage of external review is by appeal to the District Court. If a matter was appealed to the District Court, the Minister is automatically a party to the proceedings and it is expected that, if this were to occur, he/she would have legal representation. Further, at this stage in the review process the Premier may confirm the Ministerial Certificate (S.43(7)).

While a similar situation to the Victorian incident could occur here, the South Australian FOI Act provides additional protection on the grounds of law enforcement and public safety.

2. In the case in question, the Victorian Hospital denied access to the names of the nurses and it was the decision, upon review, of the Administrative Appeals Tribunal (AAT) that directed release of the document. The AAT has no jurisdiction over FOI in South Australia.

In this particular case, the Victorian Hospital itself has admitted that it wrongly used a hospital administrator, instead of a lawyer, to try to block disclosure of the names, and it also failed to appeal against the decision.

In South Australia, given the broader scope of the exemption and the ability to issue a Ministerial Certificate, the Ombudsman or the District Court may have determined the case differently.

Therefore, while the Victorian decision may not be acceptable, I consider that the additional protections found in the South Australian Act are sufficient.

3. No. As mentioned above, I believe that the South Australian FOI Act contains sufficient protection—its exemption is broader than that in Victoria, a Ministerial Certificate can be issued, and the review and appeal processes are considered adequate.

PROJECTS DELIVERY TASKFORCE

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

1. Does the Treasurer consider the Government's Projects Delivery Taskforce to have been a success?

2. If so, why is it being disbanded?

3. What department will now take over the role of the Projects Delivery Taskforce?

4. From its inception to its disbandment, what major developments was the taskforce involved with?

5. How much were the developments worth—

(a) individually; and

(b) in total?

6. How much were the five private enterprise members on the taskforce paid for their involvement?

The Hon. R.I. LUCAS: The Premier has provided the following information:

In reference to the answer to Parts 4 and 5 of Question On Notice 173 printed in *Hansard* on 1 June 1999, some of the figures provided for approximate worth of projects were incorrect when printed.

Please note the following amended figures replace the original details given on 1 June 1999.

4. and 5. The major developments with which the taskforce was involved, and their approximate individual and total worth at December 1998, are as follows:

Project	Approx worth ($ Million)
Glenelg/Holdfast Shores	180
West Beach boat facilities	11
Riverbank Precinct/Convention Centre	55
National Wine Centre	35
Memorial Drive	20
Barossa Valley Resort	30
Barossa Water	90
Hawker Airport	>1
North Terrace boulevard	>5
Virginia pipeline	22
East End	>10
Southern Vales pipeline	>5
Kangaroo Island tourism development	10
V8 Super Car race	>5
Student housing	10
CBD broadband cabling	20
John Martins redevelopment	70
Total	>581

PAPERS TABLED

The following papers were laid on the table:

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

Regulations under the following Acts—

Criminal law (Forensic Procedures) Act 1998—

Qualified Persons

Daylight Saving Act 1971—Commencement

Rules of Court—

Magistrates Court—Magistrates Court Act—Criminal Law Forensic Procedures
Supreme Court—Supreme Court Act—
Documents—Miscellaneous
First Schedule
Guidelines for the Classification of Computer Games
Guidelines for the Classification of Films and Videotapes
Printed Matter Classification Guidelines

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

Regulations under the following Acts—
Development Act 1993—Variation
Road Traffic Act 1961—
Hook Right Turns
Expiation Fees Variation
Tobacco Products Regulation Act 1997—Notice
South Australian Council on Reproductive Technology Report

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

Regulation under the following Act—
Adelaide Festival Centre Trust Act 1971—Authorised Person.

DRUGS BOOKLET

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement on the drugs booklet made by the Premier in another place.

Leave granted.

QUESTION TIME

OUTSOURCING

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Attorney-General a question about a Federal Court decision.

Leave granted.

The Hon. CAROLYN PICKLES: I refer the Attorney to the recent ruling by the Federal court determining that outsourcing cannot be used to reduce workers' pay and conditions. Given that this Government has embraced outsourcing in many areas, one can only assume that the impact of such a decision is potentially enormous.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: This is a Federal Court ruling—be patient. Has the Attorney sought and received advice regarding the impact on the State Government of the Federal Court's ruling? Can the Attorney provide a list of Government services now outsourced that employ former public servants on inferior terms and conditions of employment? Can the Attorney also provide an estimate of the total number of workers in South Australia who will be affected by the Federal Court's decision?

The Hon. K.T. GRIFFIN: I understand that it was the decision of one judge. I do not know whether it will be the subject of an appeal, so I will not make any comment about it. In any event it would not normally be the Attorney-General who would seek to ascertain the sort of information to which the honourable member refers. Normally advice to the Government through the Attorney-General comes from the Crown Solicitor, but it generally comes only at the request of the client agency, whether department, statutory corporation or some other unit of Government.

I have not initiated any request for the sort of information to which the honourable member refers. It is a matter of interest, but I expect that the Minister for Government Enterprises would have sought to obtain some information about it. It is a matter of interest to me and to the Government. I will take the honourable member's question on notice and bring back a reply.

GOODS AND SERVICES TAX

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about goods and services tax consultants.

Leave granted.

The Hon. P. HOLLOWAY: On 8 July I asked the Treasurer to confirm that up to $20 million would be spent on goods and services tax consultants. He replied, 'I suspect that this one is significantly accurate.' On the same day on two separate occasions the Treasurer made ministerial statements in which he conceded that there was a Government estimate that the consultants would cost up to $20 million and that there was no budget line for this expenditure. My questions are:

1. Given that the Treasurer has now confirmed that the Government is to spend between $15 million and $20 million to advise departments on implementing the goods and services tax, will he tell the Parliament whether the consultants have now been appointed?

2. Were the consultants selected by open competitive tender?

3. Given that the Treasurer has confirmed that no budget line exists for this expenditure, how are the consultants to be paid?

The Hon. R.I. LUCAS: I have a draft reply to the honourable member's question, which I have not yet had a chance to sign off on, but I do not recall ever confirming in my contributions on the last day of the last session of the Parliament that there was a cost of—

The Hon. P. HOLLOWAY: I think it was in the *Advertiser* of 15 July.

The Hon. R.I. LUCAS: I have not confirmed to anybody that the cost is $15 million to $20 million. That was an estimate first introduced by the Hon. Mr Holloway, and I confirmed that there had been a preliminary estimate by either a Treasury officer or someone from the Department of Supply that there was to be the possible expenditure of $15 million to $20 million. I have not yet had a chance to sign off on the answer back to the honourable member, but the note says that there has been a preliminary estimate of the cost of consultants across Government portfolios in the range of $15 million to $20 million. It is a preliminary figure based on individual agency estimates prepared before they had an opportunity to assess fully the scope of the project. Each portfolio had been requested to prepare an impact statement, and I understand that impact statement, which is a more definitive estimate of what the costs might be, will be available some time early next month. Whether or not that $15 million to $20 million preliminary estimate figure is true, I cannot confirm.

I indicated that, based on the advice that I had received on that particular day, there had been no documentation within Treasury to substantiate that figure. I am told that Treasury officers have found a copy of a minute within the department addressed to Supply SA which includes that comment about the preliminary estimate of $15 million to $20 million. By the

end of next month we should be in a better position to do a detailed estimate of what departments think the costs of the implementation of the GST might be.

I can only reiterate that there is no existing budget line for $20 million to pay for GST consultants so, if no separate provision were made, they would have to be paid for out of existing allocations to Government departments or within some broad Treasury contingency. I understand that an allocation smaller than $20 million has been included for GST implementation generally, and I will need to get some details on the size of that allocation. That was not intended evidently to cover just the payment of consultants to assist with the task of the implementation of the GST.

My final point, which I believe I made on the last sitting day, is that the Commonwealth department is estimating something up to around $40 million in savings for departments from the introduction of the GST. If those Commonwealth estimates are correct, one would need to look at the net impact on departments of the savings to be made and the potential costs of the implementation of the GST, as is alluded to in these preliminary estimates on consultancy costs.

The Hon. P. HOLLOWAY: By way of a supplementary question, I point out that I also asked the Treasurer whether the consultants had yet been appointed.

The Hon. R.I. LUCAS: Again, the letter that I am about to sign off to the member will clarify that. My recollection is that a panel has been appointed after a tender process. I think that up to 10 or 11 different consultancy firms have been given a tick in terms of being able to be used by various departments. The general process—and I will need to check the detail in the answer that I am about to send to the member—is broadly one of trying to get some sort of efficient process of appointing consultants that departments might need and, if possible, getting some sort of low cost in terms of those appointments. A number of people have been approved to be members of a panel from which departments and agencies can now select.

There has been a form of tendering process, so it is not just one firm that will get the contract. A number have been placed on a panel, and agencies can choose from that panel. My understanding is that there will be some sort of set fee rather than a whole series of departments and agencies competing with others for various consultancies and perhaps paying fees higher than have been agreed through this tendering process.

TOBACCO LITIGATION

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question on the class action against Australian cigarette companies.

Leave granted.

The Hon. T.G. ROBERTS: We all know that cigarettes are dangerous to health because, in recent years, cigarette companies have been forced—

The Hon. K.T. Griffin interjecting:

The Hon. T.G. ROBERTS: The Attorney said that most people know that, and that is probably right. Most people do know that and still smoke, and that is their choice. At least in recent years that warning has been presented on all sides of cigarette packets so that people have a choice to make.

The Hon. A.J. Redford: It makes me take a deep breath every time I read them.

The Hon. T.G. ROBERTS: If the honourable member joins the class action, he might be able to make enough money out of it to keep himself in cigarettes for the rest of his life. Class actions have been started in the United States against cigarette companies for damage caused to health, on the basis that, basically, cigarette companies did not supply accurate information that was known to them in relation to the causation between a number of diseases related to smoking and health. In South Australia, and in fact in Australia, we have been a little bit slow off the mark in taking up that class action. Cigarette companies are now addressing that part of their responsibilities by massive payouts in the United States in admitting that their product does cause ill health to smokers.

On 27 May 1998 the Human Services Minister told the House of Assembly that tobacco smoking is a major public health issue responsible for 1 800 deaths in South Australia each year, including 30 per cent of all cancer deaths and 25 per cent of all heart disease. The Minister said:

> The cost of tobacco-related disease in South Australia has been estimated at approximately $750 million, comprising $50 million in direct tangible costs and $700 million in intangible costs.

My question to the Attorney-General is: will the South Australian Government join the proceedings or offer assistance to South Australian plaintiffs in the landmark class action in the Federal Court against major tobacco companies which, if successful, could result in millions of dollars of compensation for victims, their families and to health authorities, including those in South Australia, that have borne the financial cost of smoking related illnesses?

The Hon. K.T. GRIFFIN: I guess the reason why Australians have been a bit slow to jump on the litigation bandwagon is that Americans are much more litigious than those in Australia and can resolve issues without getting into litigation. That is the better course to follow. But, in any event, some of our procedures are not as flexible as those in the United States. In the United States it is almost a culture of litigate or perish, and I do not subscribe to that view.

The Hon. T.G. Roberts interjecting:

The Hon. K.T. GRIFFIN: Maybe litigate and perish when they get the bill.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: Not in South Australia. From my area of responsibility we would not be in the business of providing support to litigants in what are essentially cases of a private nature. Class actions are allowed in the Federal Court under Federal law, on the basis that the legal representatives will take the risk of costs, generally speaking, or some other arrangement may be appropriate, depending on what is negotiated between the legal representatives and at least some members of the class—

The Hon. Carolyn Pickles: You can make data available. You have all the figures about it.

The Hon. K.T. GRIFFIN: That is not what I was asked. I was asked whether we would support litigants in their civil action. The Legal Services Commission in South Australia is the body which is charged with the responsibility of providing legal aid, and I would suggest that, if anybody wants to get some advice, they should at least initially turn to the Legal Services Commission. It might, nevertheless, be outside its funding guidelines. I suspect it probably is, and, in any event, there are other priorities of the Legal Services Commission with respect to the way in which it uses its limited funds, both State and Commonwealth funds, to assist

citizens. Civil litigation is not generally one of those areas which assumes a high priority.

In terms of whether or not the Government will join in any litigation, that issue has not been raised with me and I will make some inquiries. I think that we would be very reluctant to join in private litigation of this nature. If the Government itself was being sued, that is another matter: but, as far as I can see, it is not.

I suppose there is the other question about whether or not there is any value to Government in participating, and on the surface of it it is difficult to see that there is. I will take the questions on notice. If there is any further information that I can bring back, I will do so, otherwise the honourable member can take it that I would certainly have no intention of advising the Government to assist individual civil private litigants. At this stage I cannot see that there is much benefit to be gained by Government in joining in expensive class action litigation.

The Hon. T. CROTHERS: As a supplementary question, does the Attorney believe that some of the state legislatures in the United States joined the class action to provide themselves with immunity—

The PRESIDENT: Order! Ask the question please.

The Hon. T. CROTHERS: Does the Attorney-General believe that, with respect to state governments joining the class action, this would assist with providing them with immunity from the class action being extended to them with respect to the advertising that they allow relative to tobacco companies in all the states, and that states have joined the class action to provide themselves with some form of immunity against the extension of such class action?

The Hon. K.T. GRIFFIN: I suppose there are a variety of reasons why state governments in the United States might join in this sort of litigation. There has been extensive litigation in which a number of state governments in the United States have been involved. I think members would have read of some of the quite significant settlements which appear to have been made with the cigarette manufacturers. Those actions were generally initiated by Attorneys-General rather than by the governments, as I recollect.

The situation in the United States, as I understand it, is quite different from that which prevails in Australia in terms of the legal system and in terms of issues of liability, and of course in relation to taxation. In Australia we have a very heavy taxing regime imposed upon cigarettes. That is not the case in most, if not all, United States states where, of course, government actions are directed towards recovering a significant proportion of the costs of providing health and other support to those who might be the victims of smoking tobacco. So it is not easy to translate the American experience to the Australian situation.

The Hon. T. Crothers: There is money going into the various state health systems as well.

The Hon. K.T. GRIFFIN: Yes, and it varies, for a variety of reasons, between the different states as to why they may want to take on some of the tobacco companies. But there is less inclination to do that and probably less reason in Australia, very largely because of the high taxing regime which is applied to cigarettes and tobacco in this country. Again, I will take that part of the question on notice. If there are additional matters that I need to bring back by way of a further response, I will do so.

The Hon. NICK XENOPHON: As a supplementary question, can the Attorney indicate whether the Government has investigated the possibility in the past of mirroring the actions of the United States jurisdictions to recover health care costs from the tobacco industry?

The Hon. K.T. GRIFFIN: No, we have not, because very largely they are matters which involve American jurisdictions and not Australian jurisdictions and, as I said, the Australian experience, and the legal system, is quite different from that in the United States. One significant difference—and again I highlight this—is the high taxing regime that exists in Australia from which we pay a lot of our health and other costs that are necessary to meet the consequences of tobacco smoking. However, in any event, there may not be any standing for the State Government to join litigation in the United States.

Secondly, I cannot think of any worse scenario than for the State to be briefing American lawyers—sending a team of people across to the United States to live for perhaps two or three years, maybe five years, depending on the nature of the case—and to end up in a legal battle in American courts which might last for 10 years. It really is quite out of the question. I certainly would not advise the State Government to embark upon that course of action because we have a different system and I do not intend to embark upon extensive litigation which will cost us the earth. It just does not make sense.

EMERGENCY SERVICES LEVY

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 the emergency services levy.

Leave granted.

The Hon. J.F. STEFANI: I refer to the budget estimate papers for the ensuing financial year and in particular the budget estimate papers dealing with the emergency services portfolio which show total receipts set at $108 894 000. The total expenditure in these papers is detailed at $101 074 000, showing a surplus of $7.82 million, which is the amount transferred to retained earnings. The total amount allocated from the new emergency services levy for the coming year has been detailed by the Minister for Emergency Services at $141 500 000. Will the Attorney advise why such a large discrepancy exists between the expenditure figure in the budget papers tabled in Parliament in May this year and the detailed breakdown of the revenue to be raised by the emergency services levy provided by the Minister on 12 July 1999?

The Hon. K.T. GRIFFIN: I will refer the question to my colleague in another place and bring back a reply. I think at least part of the answer is that quite significant expenditure is to be made on the Government radio network and the computer aided dispatch system, and that is essential for our emergency services. While there is some argument out in the public arena that we do not need the Government radio network, anyone who has studied the deficiencies around South Australia will recognise that that is not a correct assertion. Rather than embarking upon a long discussion about the funding for emergency services without the benefit of having the papers in front of me, I will arrange to bring back a more detailed and considered response.

The Hon. IAN GILFILLAN: 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 the emergency services levy.

Leave granted.

The Hon. IAN GILFILLAN: My question has particular significance in the light of that penetrating previous question on what may be an imbalance and identified surplus funds in the levy.

Members interjecting:

The PRESIDENT: Order!

The Hon. IAN GILFILLAN: An advertisement inserted by the Government in the Mount Barker *Courier* last Wednesday states:

> By law, every cent collected by the emergency services levy will go towards the provision of. . . the resources the MFS [Metropolitan Fire Service] and CFS [Country Fire Service] need to continue their role effectively.

That is wrong, clearly wrong. It is only a matter of several weeks ago that we passed the law which specifically said that the levy is collected to fund not only the CFS and the MFS but also the State Emergency Service, Surf Lifesaving SA, Volunteer Marine Rescue and South Australia Police. They also go to research, education and administration expenses, such as the massive $9.7 million for levy collection.

Apart from this being plain wrong, the advertisement is also misleading, because to state, as it does, that the CFS and the MFS are getting 'the resources they need' is to imply that the money is being spent on priorities identified by the services themselves. However, the money is being spent on the Government's priorities, not those of fire fighters. I have mentioned that the $1 million that the CFS requested for personal protection for volunteers has been rejected by the Government. The Emergency Services Minister says that the CFS budget has been increased from $20.1 million in 1998-99 to $32 million in 1999-2000. However, the increase of $11.9 million is almost entirely taken up by a charge of $9.5 million for this year's CFS share of the promised Government radio network.

The CFS's own Frequent Responders Advisory Group (FRAG) is a group that represents brigades which respond to 30 per cent of all CFS call-outs. Its opinion of the Government radio network is as follows:

> From a firefighting point of view there are some real concerns about the operational effectiveness of the GRN. Being a UHF system it is less effective than the current VHF system in:
> · hilly terrain,
> · smoke, dust and even pollen,
> · tall trees (eg pine trees in the South-East).
> There is [also] concern that the GRN system will not be able to service outlying areas where only one GRN repeater is positioned. In the event of a major fire the system will not cope with a high level of radio traffic.

It concludes:

> It is a shockingly expensive communication system that is unlikely to deliver any significant improvements in the operational capacity of the CFS.

This has come from the CFS's own Frequent Responders Advisory Group. In spite of the figures, which show an increase in overall funding, FRAG is publicly campaigning that there is a crisis in CFS funding because the items that the CFS itself wants to fund have been rejected. These are the areas which matter most to the people who actually do the work of fighting fires, that is, in the areas of training, appliances and personal protective equipment. In its statement the advisory group concludes:

> Take away the Government radio network (that the CFS didn't ask for) and all the contributions made previously by councils and you are left with an amount that at best duplicates the funding levels of two and three years ago, at worst duplicates the funding levels of four to six years ago. Those budgets were all deficient then, as the [current] budget is most certainly deficient now.

As the Hon. Julian Stefani has indicated, there could be unallocated funds in this levy; how timely that discovery is. With that also in mind, I ask the Attorney:

1. How can the Government claim, as it did in the *Courier*, that 'every cent collected by the emergency services levy is going towards provision of resources which the CFS and MFS need'?

2. Will the Government publish a retraction and correction in the *Courier*?

3. Why has the Government imposed on the CFS a $9.5 million cost for the radio network which its own frequent responders have publicly stated they do not want, while rejecting a $1 million cost for personal protection for the volunteers?

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: I note that the Hon. Mr Ron Roberts is not able to make any constructive contribution to this discussion, other than a rather superficial interjection.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: It appears you will not get a question, because no-one will let you answer it.

The PRESIDENT: Order! The Attorney-General should answer the question.

The Hon. K.T. GRIFFIN: I will take some of those matters on notice and bring back a reply. I certainly do not believe that the advertisement is misleading, and I will bring back a more considered response in respect of that. The Hon. Mr Gilfillan makes a number of quite specious assertions in his explanation. He talks about money being spent on Government priorities and not CFS priorities. I do not know who he thinks the CFS is; it is a statutory authority which ultimately is responsible to Government, which has a responsibility to the community. Someone has to make decisions about priorities and the way in which taxpayers' and citizens' money is spent, and ultimately be accountable to this Parliament. It is obvious from the focus upon the levy that members in both Houses want to test and probe about this issue, and hopefully next week there will be another opportunity to do that when an amending Bill is before this Council, having been considered in the Assembly.

So, the job of Government in terms of dealing with emergencies and emergency services is not an easy one. It has to take advice and then it has to make decisions. The advice the Coroner gave back in 1984 as a result of the 1983 Ash Wednesday bushfires was that we had to do something about a Government radio network. Since 1983, and for the next 10 years, the then Government did nothing about it, except that it had working groups looking at Government radio networks described by various titles and comprising various groups over time, until we came to office. We then had to grasp the nettle. The nettle is not an easy one to grasp because always there will be criticism, particularly when you have to raise the money to pay for this sort of technology.

All the advice that the Government received in consequence of all the inquiries made by the previous Labor Government and the current Government was that we needed to significantly upgrade the communications network around the State because there are black holes everywhere. There are block holes in the Adelaide Hills, on Eyre Peninsula and in

the South-East, where even on good days units cannot talk to each other or to headquarters. It is obvious that the Coroner would say that it is time for Governments to do something in order to protect volunteers and paid professionals as well as other citizens who depend upon those emergency services for search, rescue and protection services. Of course the police are included in that along with all the other emergency services, the ambulance service and so on.

The Hon. Ian Gilfillan: Are you going to correct the misleading ad?

The Hon. K.T. GRIFFIN: It is not misleading.

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: You should have listened to my answer. I said that that is my view, that it is not misleading, but that I will take the question on notice and bring back a more considered response. What more does the honourable member want?

The Hon. Ian Gilfillan: Correct the advertisement.

The Hon. K.T. GRIFFIN: Come on! As a result of that, the Government made decisions about the Government radio network. It sought requests for proposals, it received propositions, made a detailed analysis of those and ultimately Telstra won the contract. Telstra has the responsibility of rolling out the Government radio network across South Australia, and in conjunction with that the computer aided dispatch system will hang off that system. They serve a number of purposes. The Hon. Mr Gilfillan referred to the Government's 'own' Frequent Responders Action Group. It is not the Government's.

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: The honourable member did say that. If the honourable member checks the *Hansard*, he will see that he referred to the Government's own frequent responders action group. It is not the Government's; it is a group of volunteers who have a beef. They have a beef with which we disagree. They say that there are real concerns about the Government radio network. That is being promoted around the place, but the Government radio network is a massive development. We are confident that it will better serve the interests of all the people I previously referred to right across the State, including in those areas where there are significant black holes in communications, particularly during times of fire.

The honourable member seems to suggest that the Government was not aware of the problems that radio communications face behind a forest fire front or in other fire circumstances. All of that has been taken into consideration to ensure that we have a system which enables people on the ground to communicate with each other. One of the inane propositions put up by some people was to use mobile or satellite telephones. The nonsense about that suggestion is that, on a mobile telephone, only two people can talk to each other, so other people cannot overhear the conversation and respond accordingly. That is crazy.

The next criticism is that it is shockingly expensive. It is a huge technology that will cover a substantial portion of the State, so it must be expensive by the very nature of the work that is proposed. The Government is satisfied that, on the basis of the requests for proposals and tendering and bidding, it has the best possible deal, including incorporating industrial development propositions. The honourable member stated that the Country Fire Service did not ask for the Government radio network. It did ask for improved communications, and it will get improved communications in a manner that the Government believes will be the most effective and most cost effective.

The honourable member referred also to some unallocated funds. I advise that there are no unallocated funds in the budget in relation to the Community Emergency Services Fund. All funds are being used for the purposes of emergency services. Let me say this, too: the honourable member ought to look at the Act. The Act says that the Government can spend this money only on emergency services, and it is tightly constrained by the legislation that passed through this Parliament which provides that the money that is raised through the levy can be spent only on emergency services. I can tell the Council that we have had to test that on a number of occasions by getting advice from the Crown Solicitor in determining what can and what cannot go in.

The Hon. T. Crothers: It is a question of the money or the box.

The Hon. K.T. GRIFFIN: Yes, the money or the box.

The Hon. P. Holloway: You are trying to test it to its limit, no doubt.

The Hon. K.T. GRIFFIN: We are not trying to test anything to its limit. A number of protections seem to have been ignored by a number of people who are agitating against the emergency services levy, fuelled by the Opposition, in particular. It is suggested that it is a wealth tax and there are no controls. The Act provides that the money can be used only on emergency services, so there is a lawful limit in any event as to what it can be used for. The second point is that any increase in the amount of the levy has to go before Parliament and, in respect of any increase, it can be agreed only if it is supported by a resolution of the House of Assembly. We are seeking to amend that provision in the Bill that will come through to the Council from the House of Assembly to include the Legislative Council.

There are so many constraints and there are so many protections against abuse that I would have thought that all members of the Parliament and the community at large would be delighted that at least we have been prepared to put protections into it to prevent that abuse.

JET SKIS

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question in relation to jet skis.

Leave granted.

The Hon. J.S.L. DAWKINS: Most members of the Council would be aware that the waterways of the Murray River between Wellington and the New South Wales border are popular with jet ski users. Last year, the Minister introduced amendments to the harbors and navigation regulations imposing speed restrictions on jet skis. This action was taken subject to a review. I understand that a public meeting will be held in Berri on 18 August so that jet ski users and members of the community can have input into the new laws. It is also my understanding that additional meetings are planned in other areas where jet skis are commonly used. My questions to the Minister are: which aspects will the review process examine, and how will the views of jet ski users and the community be taken into account as part of the review?

The Hon. DIANA LAIDLAW: I can confirm that all the regulations are subject to review, and that means that the regulations applying along the metropolitan foreshore from Outer Harbor to Moana are also open for public debate and

input, as is the speed limit of 4 knots on the Murray River. This was an undertaking that we made when introducing the regulations last year. Hassell Pty Ltd has been appointed as consultants to undertake the public consultations.

As the honourable member noted, there are various meetings to be held with the jet ski operators, and the retailers themselves—and they do certainly have an interest in this matter—and with councils and other key stakeholders, and we are working closely with the Local Government Association. Separate meetings will be held at Port Adelaide, Holdfast Bay, Onkaparinga, Berri, Murray Bridge and Goolwa. It is not always possible at certain times for people to meet on certain days at a public meeting, particularly in country areas, and covering the metropolitan coast as well. A hotline will be open for public input between Monday 16 August and Saturday 21 August, and a fax number and phonelines will also be provided at other times during office hours at Hassell Pty Ltd if members of the public wish to comment.

The inquiry will also look at interstate and international practice in terms of the use of jet skis, because this is not just an issue for Adelaide and South Australian waters. The use of jet skis is being debated across Australia at present, but also in the United States, in the Mediterranean regions, for the shoreline off Britain and Ireland, in South Africa and in South America. So we should learn from national experience and international experience as well. All of this advice will come to me by mid September. Hassell anticipates that its report will be concluded by the end of August.

PRISONS, NURSES

The Hon. T. CROTHERS: I seek leave to make a precied statement prior to directing some questions to the Attorney-General, representing the Minister for Police, Correctional Services and Emergency Services, on the availability of nurses in prisons after hours.

Leave granted.

The Hon. T. CROTHERS: In the *Advertiser* of Thursday 15 July this year an article featured with the heading 'Jail "needs nurses around the clock"'. According to the article, a recommendation is being made by the Assistant Coroner, Bill Boucaut, that Mobilong Prison should have nurses on duty around the clock, after holding an inquest into the death of a prisoner who was treated by Correctional officers because no nurse was on duty. The inquest heard that Mobilong, which can hold up to 220 inmates, had nurses to handle routine matters but that none worked at night. The Coroner also stated that Correctional officers were 'ill-equipped' to recognise and deal with emergency situations, that they are trained in first-aid but are not nurses. My questions to the Minister therefore are as follows:

1. Does the Minister intend, acting on the Coroner's recommendation, to have nurses on duty around the clock in Mobilong Prison and, if not, why not?

2. What arrangements are currently in place in South Australian prisons to assist those prisoners who may take ill after hours?

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

NURSING HOMES

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief statement before asking the Minister for the Ageing a question about nursing homes.

Leave granted.

The Hon. CAROLINE SCHAEFER: The *Advertiser* reported yesterday that there are some 17 nursing homes throughout Australia, including three in South Australia, where the residents are considered to be at serious risk, and another five, I think, in South Australia were rated as unacceptable by a Federal Government report. One of those nursing homes is the Carinya nursing home at Clare, where I now live. I have visited—

The Hon. Diana Laidlaw: Not at the nursing home but in the town.

The Hon. CAROLINE SCHAEFER: It's only a matter of time! I have visited the Carinya nursing home and was most surprised to see that this report had been brought down on that nursing home because, to me, the residents appeared to be very well cared for and there were clean and, I thought, pleasant surroundings. My questions to the Minister are:

1. What measures are in place to ensure that elderly South Australians are adequately cared for?

2. Does the Minister have any comments about the three nursing homes that were listed as places of serious risk for residents in South Australia?

The Hon. R.D. LAWSON: I, too, was somewhat surprised when I learnt that the Carinya Home for the Aged at Clare was included with a number of other aged care facilities that did not meet the standards during inspection, which I understand was conducted last year, because all the reports that I had had concerning Carinya were very positive about the standard of facilities and the quality of care provided to residents.

I am not familiar with the other two South Australian facilities that were named in today's *Advertiser* article. I think it is worth putting some of the rather extreme claims made in relation to this matter into perspective. Some 133 000 Australians reside in aged care facilities, about 14 000 of them in this State. There are some 300 aged care facilities in this State catering for those 14 000 people. The vast proportion of aged care facilities have been found to be entirely satisfactory in accordance with the standards.

However, what the Commonwealth Government, as the principal regulatory authority, is seeking to do is to raise the standard of aged care facilities across the board. I think that the previous arrangements could fairly be said to have concentrated upon the physical factors in aged care facilities: does the plumbing accord with appropriate standards; are the kitchens clean and well maintained; are the medication cupboards kept behind locked doors; and so on. What the Commonwealth is seeking to do—and I think we in the community should commend this—is to examine not merely physical facilities but also quality of life issues, such as whether a facility allows the maximum independence to its residents; does it have in place appropriate training schemes for staff; do staff appreciate the needs and aspirations of older people; are they alive to opportunities; is the institution too institutional and not home-like enough—issues of this kind which tend to be rather more subjective than the objective standards that previously applied—and, more importantly, is the institution itself dedicated to improving itself in the standard of care and quality of life that it is offering?

These standards will come into operation fully from 1 January 2001. There is an accreditation process which, I am confident, will lift the standard across the board. I think that we in this State should be very proud of the aged care sector and the quality of care that has hitherto been provided, and the amount of dedication and the resources being committed

to ensuring that these accreditation standards are met.

I think it was unfortunate that my Federal colleague the Minister for Aged Care (Hon. Bronwyn Bishop) was quoted in the *Advertiser* as saying that certain homes were 'a disgrace' and vowing to shut them down. Certainly I agree and I think all members would agree that, if any aged care facilities do not meet standards and quality of life is not given appropriate regard by the management, perhaps they ought to be shut down, but there is no suggestion that the three institutions mentioned in South Australia are in this category at all. I am informed that they have taken appropriate steps following the beginning of the accreditation process to ensure that they meet the standards and have in place this quality management assurance which is required.

I believe that not only the three institutions that were named in that category but also others, including one for which I have ministerial responsibility—namely the Strathmont Nursing Home at Oakden—have taken appropriate action. I can assure the Chamber that, in relation to Strathmont, appropriate steps have been taken, and I am assured that accreditation will be duly granted in respect of all the others.

HOUSING TRUST

In reply to **Hon. CARMEL ZOLLO** (3 June) and answered by letter on 14 July 1999.

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

1. Budgeted maintenance for 1999-2000 year

Responsive maintenance (day to day)	$22.38m
Vacancy and Transfer maintenance	$15.22m
Programmed maintenance	$18.95m
Total	$56.55m
Home Renovation Program	$22.57m
Total	$79.12m

2. For clients allocated in the 1997-98 year, the average waiting time for South Australia was 23.7 months. This can vary dramatically depending on the location and the type of housing available within a particular region. Under the new eligibility and needs criteria, the waiting period could vary from a few hours up to several years.

3. Waiting times for public home maintenance are as follows—

Priority 1—e.g. disaster, electric faults, fires, gas escapes—within 4 hours

Priority 2—e.g. services, drains, hot water service—within 24 hours

Priority 3—e.g. repair to fencing, flyscreen repairs—within 14 days.

HEAVY VEHICLES, YORKE PENINSULA

In reply to **Hon. CARMEL ZOLLO** (8 June).

The Hon. DIANA LAIDLAW:

1. B-Doubles are allowed to use all of the arterial road network on Yorke Peninsula except for the Kadina to Moonta Road and the Minlaton to Port Vincent Road.

As part of an extended trial, which commenced in March 1997, A Road-Trains are only allowed on the route between the SACBH Ardrossan silo and the Port Giles silo.

2. In assessing routes for both B-Double and A Road-Train routes, consideration is given to seal width, traffic volumes, turning areas and adjacent land use. Where necessary, under controlled conditions, a trial run of the particular vehicle type is undertaken over the selected route. Local Government, representing the local community, is consulted with regard to any community issues and access over local roads.

3. The trial is not proposed to conclude until the end of 1999. I expect to receive a report from Transport SA on the outcome of the trial early next year. The report will be an internal document. However, considering the honourable member's interest, I will provide her with the outcome of the trial and any subsequent actions.

4. In the 1999-2000 financial year, Transport SA has budgeted $1.1m for routine maintenance and resealing of the arterial road network on Yorke Peninsula, and $220 000 for seal widening between Ardrossan and Port Giles.

From January 1997 to date, there have been no crashes reported involving A Road-Trains or B-Doubles on the Ardrossan to Port Giles route – however, there have been four reported crashes involving heavy vehicles (eg. semi-trailers, tippers and tray top trucks).

QUEEN ELIZABETH HOSPITAL

In reply to **Hon. G. WEATHERILL** (27 May) and answered by letter on 14 July 1999.

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

1. There has been no change to the shift arrangements or the total capacity of The Queen Elizabeth Hospital to provide on site dialysis to patients in recent years. The Queen Elizabeth Hospital has not had a night shift on dialysis for over 20 years and there appears to be little or no demand for overnight dialysis.

2. For those patients who work during the day, dialysis is currently available at the two satellite units of North Adelaide and Wayville and the hours available are 5 p.m. to 9 p.m.

Expenses incurred for the cost of travel by taxi to access dialysis services at Wayville and North Adelaide are currently covered by The Queen Elizabeth Hospital. The Red Cross provides another source of transport for patients.

One of several Clinical Services Reviews being undertaken by the Department of Human Services is the Renal and Urology Clinical Services Review.

3. The issue of location of the satellite units is one of the matters considered by the Review. Recommendations being considered include the establishment of a new satellite centre in the Northern and Southern metropolitan/outer metropolitan areas.

ROAD SAFETY

In reply to **Hon. G. WEATHERILL** (8 June) and answered by letter on 18 July 1999.

The Hon. DIANA LAIDLAW: The honourable member will no doubt be aware that this excellent campaign was designed specifically to raise public awareness of the dangers faced by bicycle riders, and has been well received.

I am advised that the success of this campaign is primarily due to the fact that it is aimed at particular aspects of road use. It is considered that expanding the campaign to embrace other issues would detract from its central message and thus reduce its impact.

However, I share the honourable member's concern with regard to the needs of the emergency services. Recently, the Minister for Police, Correctional Services and Emergency Services and I approved the adoption of a range of recommendations furnished by the Speed Limit Past Emergency Incidents Working Group, which was established specifically to consider the needs of the emergency services in carrying out their vital role in the community. I have introduced into Parliament the Road Traffic (Road Rules) Amendment Bill which seeks to implement the Australian Road Rules (ARR). While the majority of the recommendations of the working party are provided for in the ARR, further necessary legislative amendments will shortly be introduced to Parliament for consideration.

As mentioned in my earlier reply, a campaign will be commencing later this year to facilitate the introduction of the ARR. It is proposed to include the use of mirrors to enhance motorists' awareness of other road users in the campaign. In addition, I understand that the individual emergency services will be conducting their own campaigns to publicise those aspects of the new road laws which will affect them. No doubt the need for drivers to be alert for, and give way to, emergency vehicles will be included in that campaign.

HINDMARSH SOCCER STADIUM

In reply to **Hon. J.F. STEFANI** (8 June).

The Hon. DIANA LAIDLAW: The Minister for Recreation, Sport and Racing has provided the following information:

While not formally identifying any clause in the deed the Soccer Federation approached the Minister for Recreation, Sport and Racing in November 1998 indicating that the two National Soccer League Clubs had reported that the requirement to pay the levies, that were to be collected for loan repayments, were causing severe financial difficulties for them. The Federation presented some proposals to the Minister for Recreation, Sport and Racing for dealing with the situation. A decision in relation to the proposals is still under con-

sideration and the process has been complicated by the subsequent voluntary administration entered into by the Adelaide Sharks Soccer Club.

PORT STANVAC OIL SPILL

In reply to **Hon. T.G. ROBERTS** (7 July).

The Hon. DIANA LAIDLAW:

1. In this case, the shore provides all the hose strings and linkages to the ship and these are carried out in accordance with the International Safety Guide for Oil Tankers and Terminals which has comprehensive instructions and checklists which must be completed prior to any cargo operation taking place. The checklists are completed by both ship and terminal and are signed, together with the Port Rules, before any operation can commence.

2. Both parties must notify the State Spill Commander in the event of a spill occurring. The provisions of the Pollution of Waters by Oil and Noxious Substances Act, 1987 apply and fines may be incurred if this is breached.

The International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), The International Safety Guide for Oil Tankers and Terminus, Port Rules and the South Australian Marine Spill Contingency Action Plan require both vessels and terminals to have in place an emergency plan which is implemented in the event of a spill.

BUS INTERCHANGE SECURITY

In reply to **Hon. R.R. ROBERTS** (1 June) and answered by letter on 14 July 1999.

The Hon. DIANA LAIDLAW:

1. Not all interchanges are fitted with cameras – only those interchanges deemed to have a necessary security requirement such as Modbury, Salisbury and Noarlunga Interchanges are fitted with security cameras. In addition, Paradise Interchange will also be fitted with security cameras in the near future. The cameras fitted at all three locations are monitored 24 hours, 7 days a week by Trans-Adelaide security. Salisbury and Noarlunga Interchanges are also fitted with help telephones which ring directly through to Trans-Adelaide Security Services.

2. A recent quote for installation of 9 security cameras at Paradise Interchange is in the order of $65 000.

The cost of monitoring and maintenance at one location is approximately $20 000 per annum.

3. 100 per cent of an image on the screen is taken by the security camera.

4. Tapes from these locations are available for and have been used by the Transit Police in its investigations.

5. I am advised that TransAdelaide's security procedures at major interchanges involve the use of security cameras and/or security guards dependent upon the situation. Where a camera is out of action for a period of time which impacts upon the safety and security of customers and infrastructure, TransAdelaide engages a Security Guard until such time as the fault has been rectified. In all cases, faults have been rectified within three days. I am advised that there have been no instances where the cameras at Salisbury Interchange have been out of action for a period exceeding three days.

HOMELESS MEN

In reply to **Hon. R.R. ROBERTS** (26 May) and answered by letter on 14 July 1999.

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

The Department of Human Services (DHS) has a collaborative working relationship with the Port Pirie Central Mission which provides services to homeless people.

The Central Mission currently receives funding through the Supported Accommodation Assistance Program to support women and children fleeing domestic violence, single adults, families and homeless youth.

Specifically in relation to homeless men, the Central Mission currently receives funding for a half time salary for a shelter assistance officer as well as operational funding.

To address the situation of the condition of the current homeless men's shelter the Central Mission, Port Pirie Regional Council and the DHS, through the South Australian Housing Trust, are continuing discussions to explore alternatives to the initial proposal of the conversion of cottage flats. It is anticipated that the Central Mission will provide a submission for funding through the Crisis Accommodation Program.

The DHS will be working towards a joint partnering arrangement which addresses the current situation and leads to the best outcome for not only homeless men in Port Pirie, but the wider community as well.

TRANSPORT, PUBLIC

In reply to **Hon. CAROLYN PICKLES** (28 October).

The Hon. DIANA LAIDLAW:

1. The Passenger Transport Board (PTB) advises that the increase in revenue in 1997-98 could be the result of consumer purchasing behaviour and the accounting period in which revenue was received, such as the buying of tickets in June prior to a fare increase in July.

2. The PTB's forecast revenue from ticket sales for 1998-99 was $49.1 million.

3. In relation to the issues identified by the Auditor-General Report (Part B, Volume 111, p786), the PTB has initiated the following—

· Development of a strategic plan with 5-10 year time frame

The PTB is undertaking a 10 year investment plan for public transport. The plan will cover buses, rail, trams and the O-Bahn and will address service issues and infrastructure.

· Development of a performance charter or agreement with the Minister which stipulates performance goals and performance measures

The PTB has identified key outputs as part of the budget process. These outputs are specified in detail in the Budget Papers including key performance measures.

· Review of its existing relationships with the various advisory panels and committees to ensure their effective contribution to policy development

The PTB has undertaken a review of all committees, which includes the Passenger Transport User Committee (PTUC), Taxi Industry Advisory Panel, Bus Industry Advisory Committee and the Accessible Transport Advisory Panel (ATAP).

As a result of this review, the PTB has—

· developed new terms of reference for PTUC and ATAP;
· appointed executive officers; and
· advertised for new members for PTUC and ATAP.

In addition, the PTB participates on the Southern Adelaide Regional Transport Advisory Group and the Northern Adelaide Regional Transport Action Group. These two forums bring together the community, Local Government, State Government and industry to provide an opportunity for the community and others to have input into better coordination of existing services.

· Review of the fare structure for Adelaide Hills passenger transport services

Following a review, fare reductions on Hills Transit Country Bus services between Lobethal/Mt Barker and Adelaide were introduced on 25 January 1999. The decrease in fares has brought the price closer to the cost of metrotickets used on Adelaide's metropolitan public transport. In addition, from 1 January 1999 all full-time students travelling on country buses now have access to the same rate of concession as secondary and tertiary students using the metropolitan system.

AQUACULTURE

In reply to **Hon. P. HOLLOWAY** (10 June) and answered by letter on 16 July 1999.

The Hon. DIANA LAIDLAW: On 22 September 1998, the Development Assessment Commission (DAC) resolved to disband the Aquaculture Committee. This Committee had delegated powers from the DAC to determine offshore aquaculture applications outside council areas. These applications are now determined by the full DAC—or for minor applications, the DAC's delegate in Planning SA. The DAC took this decision to help resolve uncertainty for applicants, representors, the community and the aquaculture industry in relation to the processing of applications.

It needs to be remembered that the DAC is a statutory body established under the Development Act to determine development applications where prescribed. It is independent of Government in its assessment and determination of those applications.

Meanwhile, there has been no formal review undertaken resulting in a report of findings and recommendations. However, the DAC and staff of Planning SA have met and discussed issues relating to

aquaculture development and assessment with aquaculture applicants, the Conservation Council of South Australia, the Environmental Defenders Office, the Tuna Boat Owners Association, the Eyre Peninsula Regional Development Board, the South Australian Research and Development Institute, the Aquaculture and Fisheries Unit of PIRSA and the Department of Environment, Heritage and Aboriginal Affairs.

As a result, where it is required to do so by the Development Act, the DAC will continue to undertake the same level of consultation and notification that has occurred in the past. However, the DAC's procedures have been improved, for instance, with greater use made of delegations and the DAC meeting twice as often as the Aquaculture Committee.

The following statistics clearly demonstrate the improvement. At the time of the disbanding of the Aquaculture Committee in September, 1998 there were 263 outstanding aquaculture applications. This has now been reduced to 143. Further, 191 applications have been finalised since September 1998, whereas only 286 were finalised in the previous three years.

The DAC continues to have access to expert scientific advice from staff of SARDI, DEHAA, EPA and PIRSA to assist it in making its decisions. Up until recently the planning officers assessing aquaculture applications were located in the Aquaculture and Fisheries Unit of PIRSA. Following negotiations between the relevant agencies, the aquaculture assessment planners are now employed in Planning SA with all the other planners who provide an assessment service to the DAC. I am advised that this move has been accepted by the industry and the Conservation Council. It will remove any perceptions of conflict of interest and improve the efficiency of assessment.

Over the past nine months, the DAC has adopted a more open approach, allowing greater access to reports and information which has been well received.

INFORMATION TECHNOLOGY

In reply to **Hon. R.R. ROBERTS** (10 March).

The Hon. R.D. LAWSON: The Minister for Information Economy has advised:

1. The IT Works marketing campaign comprised a number of radio commercials and associated newspaper advertisements. They described how the use of IT is assisting industries to develop. These commercials and advertisements were featured in both metropolitan and country areas.

A television commercial was also made for showing on the electronic scoreboard at Football Park. It was shown at that venue on a regular basis. It has also been shown as a community service announcement on NWS Channel Nine for no charge.

2. The Government considered that the campaign was necessary to assist the South Australian community to better understand the developing role of IT in this State and its impact on the development of an information empowered society.

The target audience is the South Australian community. One of the objectives was to stimulate interest in IT as a growth industry and one in which there is a bright future for employment. One of the messages on the newspaper advertisements is to encourage people to inquire at TAFEs and universities for more information in relation to a career in IT.

3. Benefits include raising the awareness of the community to the work being done in the area of information technology and highlighting success stories in the industry itself. The campaign also encouraged people to consider the growing IT industry as a vocation.

Whilst it is very difficult to measure direct benefits from advertising, the IT companies concerned believe the recognition they received in the campaign contributed to their increased success. Feedback from educational institutions suggests there has been an increase in enrolments in the field of information technology over the last year.

4. Yes, in December 1998. This evaluation suggested:

- There has been a slight increase in the ranking of the IT industry in comparison with other industries in terms of importance to South Australians. It ranked 4th position in the community. Only Education, Tourism and Wine were rated slightly ahead of the IT industry in importance.
- Awareness of the term 'IT' increased slightly with both groups.
- The response to the question whether the State Government should have a major or a minor influence on the IT industry was as high as 85 per cent, against a figure of 15 per cent of responses suggesting the Government should have no influence at all.
- The perception that 'jobs growth is likely to increase a lot', grew to 59 per cent with community responses and to 56 per cent for business. Some 78 per cent of community respondents and 85 per cent of business expect the industry to show growth.

Overall, the Government believes the IT Works campaign was both necessary and successful. The IT and electronics industry is a very important and rapidly growing industry in South Australia. It employs approximately 13 000 people. (They are not all new jobs as my comments when receiving the question may have suggested). The IT industry is also an industry that will benefit from Government support to ensure the growth continues. The IT Works campaign is a part of that support and will also continue.

ABORIGINES, DISABILITY AND AGEING SERVICES

In reply to **Hon. T.G. ROBERTS** (25 March).

The Hon. R.D. LAWSON: In addition to the answer given on 25 March 1999, the following information is furnished:

1. The Department of Human Services (DHS) through the Office for the Ageing has implemented a support structure which included Officers from the Aboriginal Services Division, Country Services, the State Commonwealth Office and the Office for the Ageing. This group has met with members of the Umoona Aged Care Board, Umoona Health Board, representatives from the Coober Pedy Hospital Board and the Acting Chief Executive of the Hospital regarding the aged care proposal. From these discussions it has been resolved that:

- The State Commonwealth Office will be formally assisting the Umoona Community in managing their project;
- Both Umoona and the State Commonwealth Officers are confident that any outstanding issues will be resolved and are grateful for the involvement of the DHS in facilitating this outcome. The DHS has given a commitment that it will provide assistance if necessary.

2. The total Home and Community Care (HACC) budget for 1998-99 has been allocated.

In the 1998-99 funding round an additional $39 000 was allocated to Umoona as capital funding.

3. In 1998-99, 2.6 per cent of the HACC budget has been allocated to Aboriginal programs.

The phenomenon of premature ageing of the Aboriginal population has been taken into consideration. Aboriginal people over the age of 45 constitute 1.29 per cent of the older population of South Australians.

The following information is also provided regarding HACC funding on a state wide basis.

Summary of Funding for Statewide Aboriginal Projects: 1995-96 to 1998-99

	Recurrent	One off
1995-96	$1 098.325	$189 000
1996-97	$1 403 375	$326 200
1997-98	$1 875 100	$106 000
1998-99	$1 904 000	$350 300

Figures are not available at this time to identify the percentage of Aboriginal and Torres Strait Islander persons who are users of disability services. However, one service, the Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women's Council is directly funded by the Disability Services Office.

INTERNATIONAL TRADE AND COMMERCE COUNCIL

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Industry and Trade, a question about the Council for International Trade and Commerce.

Leave granted.

The Hon. CARMEL ZOLLO: By way of explanation, in November last year I asked the Treasurer, representing the Minister for Multicultural Affairs, a question on the report of the review of the Office of Multicultural and International Affairs. It has been seven months and I have not yet received a response to that question. However, I have since been informed in a response to a—

The Hon. Diana Laidlaw interjecting:

The Hon. CARMEL ZOLLO: I am just explaining. However, I have since been informed in a response to a question on 9 February 1999 on the Office of Multicultural and International Affairs that the economic development activities of OMIA obviously have been transferred to the Department of Industry and Trade. The reply provided by the Premier in relation to the transfer of the CITCSA program further stated that the ministerial responsibility, associated staff and budget were approved and effective as at December 1998.

The 1998 OMIA review found serious deficiencies in the manner in which grants were made from an allocation of $350 000 for the various international chambers of commerce. The review found that the Grants Advisory Committee no longer exists and could not find evidence of the group formally being disbanded. The review also suggests that the Minister has not explicitly approved the current grants practice which appears to have replaced the Grants Advisory Committee. My questions to the Minister are:

1. How are the CITCSA grants currently assessed?

2. What process is undertaken in administering grants and what action, if any, was taken to address the serious matters raised in the OMIA report or the review?

3. Has CITCSA been advised or been provided with the opportunity to provide input to the Minister on grants?

4. Will the Minister re-establish the Grants Advisory Committee to include CITCSA, OMIA and the Department of Trade and Industry so as to provide for independent advice to the Minister?

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

LINWOOD QUARRY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Development, representing the Minister for Natural Resources, a question about the Boral quarry.

Leave granted.

The Hon. M.J. ELLIOTT: The quarry to which I refer is the Linwood quarry. Recently, I received a letter from the Marino Residents Task Force highlighting the concerns of local residents in respect of the pollution emanating from a plant which operated within the Linwood quarry. The letter informed me that the small asphalt plant had been operating for 23 years in the Linwood quarry with no problems. In September 1997, a large plant was built without the permission of Marion Council, and since that time significant problems have arisen with noise and stench. Problems are acute in summer and the residents are not looking forward to the summer pending. Summer 1997-98 saw the plant operate on diesel fuel with significant noise and stench. After many complaints to the EPA and the council, the plant was converted to gas. Noise levels then rose to 54-68 decibels.

Eventually, after much pressure, the least preferable option of building a dirt mound to limit the noise and smell was proposed to be completed by December 1998. This was not done until May 1999. While that mound was being constructed it also created dust and noise from machinery. I understand that on 5 February 1999 Boral, the EPA, Marion Council and Marion residents agreed to the following: the EPA collecting and analysing fall out—and I am told that that has not been done; the mound to be completed—which eventually happened in May; and the EPA to put diffusion tubes on residents' properties to test levels—I am told that that was not done.

Residents are aware of a lack of Government funding and the effect that that might have on the EPA and are concerned at the lack of action from the EPA. I believe that the contact made with my office followed what those residents had noted in relation to Castalloy, the recent problems with the foundry at Mount Barker and the inability of the EPA to handle those matters. My questions are:

1. Is the Minister aware of a petition signed by 700 people concerning the Linwood quarry situation presented to the member for Bright, Wayne Matthew?

2. Will the Minister assure the residents of Marino that their problems are not due to the under resourcing of the EPA?

3. What action will the Government take to respond to these concerns?

4. Is it indeed correct that the plant constructed in 1997 was built without the permission of the Marion Council and, if so, how did that come about, and has there been any legal action as a consequence of that?

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

ELECTRICITY, PRIVATISATION

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Treasurer a question about the cost of consultant fees involved in the privatisation of South Australia's electricity industry.

Leave granted.

The Hon. SANDRA KANCK: The Treasurer touched on these matters during Estimates, and in a media release on the same day he acknowledged that the consultants received $34.6 million in the 1998-99 financial year, which is four times the budgeted figure. The Treasurer claimed that the amount ballooned as a result of the complexity of trying to split ETSA and Optima into seven electricity businesses. Later he claimed:

> We have already recouped more than $34 million that has been spent this year on consultancy costs; also the electricity businesses have paid $20 million of the total $43 million all up cost for disaggregation.

My questions to the Treasurer are:

1. What moneys were paid to consultancies involved in the disaggregation and privatisation of South Australia's electricity industry in 1997-98 and 1998-99?

2. How much money has been budgeted for consultancies involved in the disaggregation and privatisation of South Australia's electricity industry for 1999-2000 and 2000-01?

The Hon. R.I. LUCAS: I will check the honourable member's questions. I was distracted at the outset of her question, so I missed the first couple of sentences, but I caught her coming home strongly, so I think I gathered all the detail I need.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: As the Hon. Mr Elliott says, I might have it out of context, so I will protect myself by saying I will go back and check the full context of the honourable member's question. With respect to the broad quantum of figures, the answer is that about $20 million was expended. The honourable member asked how much was spent in 1997-98 and in 1998-99, and I would need to check that. I am not sure about the division between those two years

but, as for the cost of the disaggregation, the quantum was that about $20 million was expended.

In respect of how much is to be expended on disaggregation in 1999-2000 and 2000-1, my understanding is that it would be nothing, unless there were some unpaid bills or flow-on costs of some sort. I will check that. If there were to be any cost it would obviously be much smaller than the $20 million figure, because the disaggregation was concluded late last year. I would imagine that all the cost should have been brought to account in the 1998-99 financial year, so I cannot see any reason why costs should be flowing across into 1999-2000. Certainly, there is no reason why there should be any disaggregation costs in 2000-1. The costs of continuing with the consultancies in 1999-2000 and 2000-1 will be for the purposes of the disposal of the electricity assets, which, as the honourable member knows, has now been approved by both Houses of the Parliament.

LOCAL GOVERNMENT BILL

In Committee.

(Continued from 8 July. Page 1655.)

Clause 1 passed.

Clause 2.

The Hon. A.J. REDFORD: Will the Minister indicate when she believes this Act will come into operation, presuming that passes successfully through the Parliament?

The Hon. DIANA LAIDLAW: Late October.

Clause passed.

Clause 3.

The Hon. IAN GILFILLAN: I move:

Page 2, after line 2—Insert:

(fa) to encourage local government to manage the natural and built environment in an ecologically sustainable manner; and

This is one of several amendments where we seek to include the ecologically sustainable aspect in the description of what is to be the incentive or encouragement for local government. I explained our approach in my second reading contribution. It does not need much expansion, but I briefly repeat that it appears to us that for today's Government management in any level it is imperative that it is mindful and motivated towards an ecologically sustainable program, and this is the first of several amendments that seek to include that encouragement in the wording.

The Hon. T.G. CAMERON: SA First indicates that it will support the amendments moved in the Hon. Ian Gilfillan's name, for the reasons outlined.

The Hon. DIANA LAIDLAW: The Government supports the amendment.

Amendment carried; clause as amended passed.

Clause 4.

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

Page 3, line 23—Leave out 'or notice'.

The Hon. DIANA LAIDLAW: The Government opposes this amendment. This amendment relates to Labor's opposition to the whole of clauses 56 and 57, which set out a procedure for election in cases where the majority of members resign on the ground that relations between members are such that the council cannot function appropriately. It removes from the definition of 'general election' reference to an election held pursuant to notice under clause 56. The provisions in clauses 56 and 57 allow a local council to resolve matters by a fresh election when relations between members break down over personality or principle.

The Hon. IAN GILFILLAN: I indicate that following consultations we oppose the amendment.

The Hon. T.G. CAMERON: SA First also opposes the amendment.

Amendment negatived.

The Hon. IAN GILFILLAN: I move:

Page 4, lines 20 and 21—Leave out '(but not one excluded by the regulations from the ambit of this definition)'.

We are not persuaded that there is any justification for a regulation to exclude a particular movable sign in these circumstances.

The Hon. DIANA LAIDLAW: The Government is prepared to support the amendment.

Amendment carried; clause as amended passed.

Clause 5 passed.

Clause 6.

The Hon. IAN GILFILLAN: I move:

Page 11, line 9—After 'just and' insert 'ecologically'.

This is a similar amendment to the first amendment I moved, namely, the insertion of the word 'ecologically' where it applies to 'sustainable'. I will not repeat the argument I put before. My comments are the same as my comments in respect of clause 3.

The Hon. DIANA LAIDLAW: The Government supports the amendment.

The Hon. T.G. CAMERON: SA First supports the amendment.

Amendment carried; clause as amended passed.

Clause 7.

The Hon. IAN GILFILLAN: I move:

Page 11, line 28—After 'environment' insert 'in an ecologically sustainable manner'.

This is a similarly motivated amendment.

The Hon. DIANA LAIDLAW: The Government opposes this amendment. It has supported previous amendments by the Democrats in terms of adding 'ecologically sustainable practice' in respect of environmental matters. However, this amendment moved by the Hon. Ian Gilfillan refers to the functions of a council. We believe that the words he has moved to insert—'in an ecologically sustainable manner'—are out of place with the list of functions which deal with what a council's objectives must be rather than how a council is to undertake those matters. We are not against the principles and we support four of the Democrats' amendments relating to practice. However, this function of a council is not related to practice. As I said, it is a specifically subjective issue related to function.

The Hon. T.G. ROBERTS: The Labor Party supports this amendment, basically to encourage local government to look at ecologically sustainable matters. The system is as important as role and function in some cases, and this encourages a mind-set rather than being prescriptive on how it ought to be carried out. That is how the Opposition views it.

The Hon. T.G. CAMERON: SA First supports the Democrats amendment.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 11, after line 32—Insert:

(ga) to consider, assess and, if appropriate, act with respect to activities which raise issues for its local community,

> including gambling and other activities which may have an adverse effect on people within its community;

This enhances the role of a council as set out in clause 7. It makes clear that councils can act with respect to such issues, particularly in the context of research or considering adverse impact. I urge members to support this amendment.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. We believe that it is unnecessary and that the issues that the honourable member has raised are already covered in clause 6, which relates to the principal role of a council, which the Committee has passed. Members will note that clause 6(d) indicates that a council is to represent the interests of its community to the wider community and, having just heard the honourable member's explanation of the amendment that he has moved, I believe that the principal role of a council in clause 6(d) as passed addresses all those issues. Clause 7, which is before the Committee, makes provision for the welfare, wellbeing and interests of individuals and groups in the community as one of the functions of a council.

The Hon. T.G. ROBERTS: I have a question of the mover. In what ways does the honourable member envisage a council acting?

The Hon. NICK XENOPHON: Notwithstanding the contribution of the Minister on this issue, this mandates local government to undertake research on the impact of gambling, for instance, in a local community. It mandates a local government body to look at the impact of that industry. Clause 6(d) and the functions set out in clause 7 do not specifically address that issue, so there is a question mark with respect to that. I envisage that, as has occurred in Victoria, a local council can undertake surveys of the impact of gaming machines and consider issues to put to Government with respect to planning and controls in relation to the gaming machine industry. This clause removes any shadow of doubt on the role of local government on this very important issue, particularly in the context of the Productivity Commission's draft report, which was released last week

The Hon. DIANA LAIDLAW: From a personal perspective, I would like to comment on the assumption that gambling has an adverse effect on people. The Productivity Commission did not show that all people who gamble see that gambling has an adverse effect on them. The assumptions that the honourable member makes are personally offensive, in addition to the comments that I raised earlier on behalf of the Government in relation to this measure.

I consider that the interests of the community are adequately covered in terms of the principal role and the functions of a council without making a subjective reference, as this amendment does, to the effect of gambling and a whole raft of other unnamed activities that could have an adverse effect. Perhaps that could include crossing the road. Some people argue that crossing the road has an adverse effect on the community because people can get knocked down. It is a grab bag of things that pushes the honourable member's personal agenda. He is entitled to do that, but it does not sit well to have personal agendas foisted on councils in a clause that deals with the principal role and functions of councils as we go into the next century. This Bill seeks to upgrade the role of councils, not for the honourable member to run his own personal agenda.

The Hon. NICK XENOPHON: I am offended that the Minister is offended in relation to this amendment. What the Minister has said is fatuous. If she cares to read the amendment carefully, she will note that it relates to activities including gambling and other activities that may have an adverse impact on people within a community. It does not say that it does.

The Hon. Diana Laidlaw: You have your personal agenda, a vendetta, against gambling.

The Hon. NICK XENOPHON: If the Minister wants me to spend several hours on this clause, I will, but I do not intend to do that. If she ceases to interject for just a moment I can perhaps answer her queries. This has nothing to do with personal agendas. This is about reflecting a great deal of community concern. The Minister should read the summary of the overview of the Productivity Commission's report, which I forwarded to her today. This has everything to do with a specific activity that has caused a significant degree of concern in local government areas.

When one considers that, for instance, in the city of Port Augusta gaming machine losses are something of the order of $5.7 million per annum in a city of just 13 000 people, I would have thought that to mandate the role of the local government to look at that issue is desirable. If the council's finding is that there are benefits, so be it, but this is about the significant number of Australians who have been adversely affected by gambling in the community. I also refer the Minister to the Productivity Commission's finding that South Australia has the highest rate of severe problem gambling in the country, according to its survey. I suggest that the Minister's remarks are not only fatuous but without merit.

The Hon. T. CROTHERS: I support the Hon. Mr Xenophon's amendment, and I do so largely because of the fatuous remark made by the Minister handling the Bill, to the effect, 'What about drinking?' I point out that one can carry a dozen bottles of beer from one location to another readily and easily—a bottle of whisky slips into the pocket—but one cannot carry the facilities for gambling and, in the planning stage at least, such facilities must be considered by council. I think the amendment is worthy of being supported, and I ask members to react accordingly.

The Hon. T.G. CAMERON: SA First indicates that it will be supporting the Xenophon amendment. It is my understanding that councils should consider the effect of gambling in their local community. I sat on the Social Development Committee when it considered and handed down its report on gambling, and the evidence that was put before me on that committee has convinced me that this issue of gambling, particularly poker machines, is such that it ought to be looked at by the local community. Local government is the arm of government closest to the local community and I cannot see a more appropriate level of government to consider, assess and, if appropriate, act with respect to activities in relation to gambling, so I support the amendment.

The Hon. Diana Laidlaw: And is horse racing and gambling adverse?

An honourable member interjecting:

The CHAIRMAN: Order!

The Hon. IAN GILFILLAN: The Democrats oppose the amendment. We do not oppose the intention of the mover that a council should be responsible for providing for the well-being and the best interests of its electors, of its population. But the fact, as I see it, is that in several paragraphs of clause 7 there is a quite clear injunction to councils to deal with not just gambling but any area where they feel that the welfare, well-being and interests are at risk, and that is paragraph (c). Paragraph (h) is to establish or support organisations or programs that benefit people in its area or local government

generally. So there is quite clear instruction from this Act, as it will be when it is eventually passed, for a council to be motivated to look at issues such as gambling and to act. It will, therefore, be up to the council, and the whole point of this legislation and the Democrats approach to it is that local councils will have as much democratic autonomy to make their own decisions as can be allocated through the process of this legislation.

So I repeat: we do not oppose the intention of the amendment, but we believe that it is unnecessarily prescriptive and, if that were to be accepted as part of the Act, it would mean that in relation to other issues, which may well be of genuine concern to the community, it could be argued, 'It is not spelt out in the Act, therefore the council is not obliged to look at it.' I think the council is obliged to look at the effect of gambling, of unemployment, of drinking in public places; in whatever area of concern about the wellbeing of the population the council is duty bound to look at it.

The Hon. NICK XENOPHON: Further to the contribution by the Hon. Ian Gilfillan, I can point out that if the word 'gambling' was removed from that clause it would still be substantially different from what is currently within the Bill, including clause 7(c), because there is a distinction between providing for the welfare, wellbeing and interests of individuals and groups within its community and considering and assessing matters that may have a negative impact upon its community. That is the basis—

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: The Hon. Angus Redford says 'Rubbish'; perhaps he may want to enlighten us with some words of wisdom shortly. But I implore the Hon. Ian Gilfillan to consider it in that context, that there is a clear distinction between the two. From a drafting point of view there is a distinction between considering something that relates to providing for the welfare, wellbeing and interests of individuals and actually mandating the council to look at specific issues that may have an adverse impact. There is a distinction between the two. It may be too subtle for some; but I would have thought that it is something that ought to be considered by this Chamber.

The Hon. T.G. ROBERTS: I rise to say that the Labor Party will be supporting it, not on the basis of being facetious at all in relation to the contribution made by the honourable member but my understanding is that local government, in some parts of the State that the honourable member has visited, has already made contributions in relation to the wellbeing of the community.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: It is not a matter of doubling up; it is just a matter of spelling it out in relation to—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: The point I am making is that it is already being addressed under sections of other Acts. I cannot see any reason why it cannot be put into the Local Government Act to at least give it that impetus that it perhaps requires at this stage, given that there are a number of reports out that indicate that perhaps local communities should be taking closer notice of activities within their areas in relation to the Planning Act. But I cannot see what powers local government has in relation to this Act, if this amendment goes in, that are not stronger in other Acts.

The Hon. T. CROTHERS: The last speaker touched on part of a comment that I wish to further make. I want to lift the level of thinking in this debate above the norm, if I may. I refer back to those reports that the last speaker touched on, which drew a comment from the Prime Minister of this country, the Hon. John Howard, when he talked about the fact that 21 per cent of the world's poker machines are located in Australia. I have no doubt that, as a consequence of that, this Parliament, in both Chambers, will in a very short space of time be devoting a great deal of its time to a debate on matters that relate to gambling. I notice that the amendment says that council 'can', not 'must', in the planning stages pay some attention to gambling within the local community.

It will indeed be a tragedy if, as a result of that subsequent debate that takes place in here on gambling, the Parliament finds one way and local government, the third arm of the trifecta of governments in Australia, finds another way. Here we are now with an amendment which allows for this Parliament to go in whatever direction it likes up the track when that debate on gambling takes place. We are putting something in place which allows them to consider this at the planning stages in respect of people seeking permission to build gambling dens or poker machine clubs or whatever. It allows the council the opportunity to address the matter.

This Parliament may in six months address the matter in its totality and bring down legislation, and a weakness in legislation may well be that there is no provision in the Local Government Act to give 100 per cent effect to such subsequent changes, which I have no doubt will take place. We now have the window of opportunity. I said I wanted to lift the level of debate, if we use just a little bit more foresight than what is currently on display here in respect of thinking of what will occur in the short-term eventuality of the debate on the totality of gambling which will occur within both precincts of this Parliament. I ask members to support the Xenophon amendment.

The Hon. A.J. REDFORD: I was not going to say anything, but the Hon. Nick Xenophon challenged me. He is a bit like a dog at a cattle market: he wants to leave his mark everywhere, on every tyre of every vehicle that turns up. I cannot see how these words—

The Hon. NICK XENOPHON: Mr Chairman, the Hon. Angus Redford is being gratuitously offensive. I would have thought that that is in breach of Standing Orders in terms of what is said about another member. I find it offensive and I ask that he withdraw.

The CHAIRMAN: The honourable member finds the comments offensive and asks that they be withdrawn.

The Hon. A.J. REDFORD: I sometimes overlook the fact that the Hon. Nick Xenophon goes to new levels in terms of being thin-skinned in this place. So I will not press it; I think the point has been made.

The CHAIRMAN: I did not hear the beginning of what the honourable member said.

The Hon. A.J. REDFORD: Mr Chairman, I am not sure what he wants me specifically to withdraw.

The CHAIRMAN: I do not find the remarks unparliamentary, in a sense, but the honourable member has asked the Hon. Mr Redford to withdraw. If he is not withdrawing, will he indicate what he is doing? The honourable member has been asked to withdraw the remarks.

The Hon. A.J. REDFORD: I will not withdraw the remarks. The clause provides that a council can provide for the welfare, wellbeing and interests of individuals and groups within its community. One would have thought that that would involve a council making a consideration, an assessment, and taking actions in respect of activities which would raise issues—

The Hon. T. Crothers interjecting:

The Hon. A.J. REDFORD: You'll get your chance a bit later: there is no restriction. One would have thought that 'to provide for the welfare, wellbeing and interests of individuals and groups within its community' would encompass the council being able 'to consider, assess and, if appropriate, act with respect to activities which raise issues for its local community'. By way of interjection I challenged the Hon. Nick Xenophon to say how clause 7(c) would be interpreted in a way that would preclude the matters that he has raised in his proposed new paragraph.

The honourable member knows that, when you put second provisions into Bills, courts try to read something into it—something in addition to what has already been said, that is, in addition to what has been said, in this case, under clause 7(c). I cannot see what the honourable member adds or is intending to add, or what hidden agenda he might have in relation to this.

Clause 7(h) provides that a council can establish or support organisations or programs that benefit people in its area or local government generally. If he is concerned about gambling, the local council, under clause 7(h), can simply support or establish an organisation that can deal with these issues: it can establish an organisation to consider, assess and, if appropriate, act with respect to activities which raise issues. But what if a local council said that it did not mind this particular form of gambling, that it wanted to maintain a racetrack in its local government area and that it did not want the Nick Xenophons of this world running around, beating it over the head and saying that it had some obligation to consider and assess issues relating to gambling? At the end of the day it is a matter for the local council. It is a matter for local government to make its own assessment about what is in the best interests of its community, and the less we say in specific terms in this Bill in that regard, the better for local government.

The Hon. NICK XENOPHON: In response to the Hon. Angus Redford, I cannot add much more to my previous comments. This clause gives a mandate to look at the negative impact of various community issues, including gambling. There is a distinction between providing for the welfare, wellbeing and interests of individuals under clause 7(c) and, alternatively, under clause 7(h), establishing or supporting organisations or programs that benefit people in the area. It actually gives a mandate to local government to look at the negative impact of a number of social issues, including gambling.

The Hon. A.J. Redford: What does it do that clause 7(c) does not do?

The Hon. NICK XENOPHON: As I indicated earlier, it clearly provides for local government to look at this issue of gambling and other issues, whereas clause 7(c) covers the whole issue of providing for the welfare, wellbeing and interests of individuals: there is a distinction between the two in terms of positively providing for welfare or actually looking at the causes of aspects that may require additional welfare for individuals in the local government area.

The Hon. T.G. CAMERON: Following the Hon. Angus Redford's contribution, I have had a look at clause 7(c) and it provides that a council can 'provide for the welfare, wellbeing and interests of individuals and groups within its community'. I seek a response from the Hon. Ian Gilfillan about this matter. I have just supported the inclusion of references to ecological sustainability and environmental protection under a whole range of clauses in the Local Government Act. Yet, if one was to look at clauses 6 and 7, one could easily mount the argument that there is a responsibility on councils to look after the environment and, whilst the legislation does not specifically refer to ecological sustainability, it is quite clear from an examination of clauses 6 and 7 that councils would be required at least to ensure that they protected the environment.

I had no hesitation at all in supporting the amendments moved by the Democrats, because I believed, as the Hon. Ian Gilfillan outlined in his submission, that it put a focus, a spotlight, on the issue. I would ask him to respond and outline what is so different between what we have done in relation to clauses 3, 6, 7, 8 and 26—and some of those provisions, as I understand it, were opposed by the Government—and what we are attempting to do in this clause in relation to gambling.

I accept the point that the Hon. Angus Redford and the Hon. Diana Laidlaw have made, that it is possible, by a reading of clauses 6 and 7, to argue that, under those clauses, maybe councils will have a look at gambling. But the intent of the amendment moved by the Hon. Nick Xenophon is to put a spotlight, a focus, on the issue, which, I believe, is very similar to what we have done in supporting the Hon. Mr Gilfillan's amendments in relation to ecological sustainability and the environment. I want to know what is so fundamentally different.

The Hon. IAN GILFILLAN: I do not know whether one could say it is a fundamental difference but it is certainly significant to us that the word 'ecological' is a global term of reference which covers a wide range of detail but in a general policy and—

The Hon. T. Crothers interjecting:

The Hon. IAN GILFILLAN: The interjection actually highlights the difference as I see it. The analogy would be that a council is obliged to take into all its considerations the moral protection or the vulnerability of the population, and that is where I see the difference. To identify gambling as a specific is, to me, an unnecessary identification of one factor which I believe the councils should take into consideration with a whole range. I see the ecological aspect as a global, broad, policy theme: the inclusion of the word 'gambling' in this context under this amendment specifically emphasises one aspect.

I have no objection to a council treating gambling in whatever way that council chooses to address it, and it should in its conscience deal with it in a way which protects its citizens. I do not think anyone in this Chamber is in any doubt about how I feel about poker machines, for example, but I do not believe that we, as a tier of government, setting up legislation for a relatively autonomous other tier of government, should be any more prescriptive than we feel we have to be.

The Committee divided on the amendment:

AYES (8)

Cameron, T. G.	Crothers, T.
Holloway, P.	Roberts, R. R.
Roberts, T. G.	Weatherill, G.
Xenophon, N.(teller)	Zollo, C.

NOES (11)

Davis, L. H.	Dawkins, J. S. L.
Elliott, M. J.	Gilfillan, I.
Griffin, K. T.	Kanck, S. M.
Laidlaw, D. V. (teller)	Lawson, R. D.
Lucas, R. I.	Redford, A. J.
Stefani, J. F.	

PAIR(S)

Pickles, C. A.	Schaefer, C. V.

Majority of 3 for the Noes.

Amendment thus negatived; clause as amended passed.

Clause 8.

The Hon. IAN GILFILLAN: I move:

Page 12, line 8—Leave out 'sensitive' and insert 'responsive'.

Therefore, if my amendment is agreed to, clause 8 'Objectives of a council' will provide:

A council must, in the performance of its roles and functions—
(b) be responsive to the needs, interests and aspirations of individuals and groups within its community;

I do not believe that the word 'sensitive' carries anything more than a platitudinous encouragement, whereas—

The Hon. T.G. Roberts: You lose sleep.

The Hon. IAN GILFILLAN: Yes, you lose sleep if you are sensitive. In that case, I would think that the honourable member suffers from a lot of insomnia.

Members interjecting:

The Hon. IAN GILFILLAN: Apart from analysing the night-time habits of the Labor front bench, I point out that the word 'responsive' implies a consideration and an action, and I believe it improves the effectiveness of the provision. To give some encouragement to the mover of the last unsuccessful amendment (Hon. Nick Xenophon), I point out that I think that these are the sort of areas in the legislation where concerned citizens can urge their council to act in the way in which the Hon. Nick Xenophon would like them to act.

The Hon. DIANA LAIDLAW: The Government supports the amendment.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 12, line 17—After 'seek' insert:
'to facilitate sustainable development and the protection of the environment and'

Therefore, if my amendment is agreed to, clause 8(f) will provide:

. . . to facilitate sustainable development and the protection of the environment and to ensure a proper balance within its community between economic, social, environmental and cultural considerations;

I believe the wording improves the intention and makes it a more explicit paragraph.

The Hon. DIANA LAIDLAW: The Government is prepared to accept the amendment.

The Hon. A.J. REDFORD: I understand the sentiments of the honourable member. My only concern is—and I will be interested to hear the Minister's response—whether this will allow third parties to attack council approvals for the granting of development approvals on the basis that it is not a sustainable development. For example, if a council approves the establishment of a power station that uses fossil fuels, will this clause be used to attack that decision on the basis that it is at least arguable that the use of fossil fuels is not sustainable development and therefore should not proceed?

The Hon. DIANA LAIDLAW: The Government does not have a difficulty with the amendment, but I accept the basis for the question. These objectives for a council as outlined in clause 8 apply across all decision making in terms of a council's roles and functions, and it is only under the terms of the Development Act where those matters can be appealed. It is quite clear as to what can be appealed, and we will make it clearer still with further amendments to the Development Act later this year. So, the Government has no concern in respect of the matter raised by the honourable member in his question.

The Hon. A.J. REDFORD: I will go on the record as being a little concerned. I do know that courts will make decisions and often will look at motherhood clauses such as this to influence their decisions. I do not think the Hon. Ian Gilfillan is being silly; I think he has an agenda. I do not criticise the fact that he has an agenda; we all have as members of this place. However, there is a risk that this might prevent development that is not sustainable. I recognise the numbers, but I express my concern so that at some stage down the track I might have the opportunity to say, 'I told you so.'

Amendment carried; clause as amended passed.

Clauses 9 to 11 passed.

Clause 12.

The Hon. DIANA LAIDLAW: I move:

Page 16, after line 30—Insert:
· The council must also publish a copy of the notice in a newspaper circulating within its area.

This amendment relates to division 2 powers of councils and representation reviews, and it specifically relates to composition and wards. This is the first of a series of minor amendments, including the following two amendments, which expand various requirements to give public notice so as to include notice in a newspaper circulating within a council's area. This instance relates to public notice at the commencement of a council review of its composition and representative structure.

The Hon. T.G. CAMERON: SA First supports the amendment.

The Hon. T.G. ROBERTS: The Opposition supports it.

The Hon. IAN GILFILLAN: Does it matter?

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 17, after line 13—Insert:
· The council must also publish a copy of the notice in a newspaper circulating within its area.

The explanation I gave to the last amendment also applies here.

The Hon. T.G. ROBERTS: The Labor Party supports the amendment.

The Hon. T.G. CAMERON: SA First supports the amendment.

Amendment carried; clause as amended passed.

Clause 13.

The Hon. DIANA LAIDLAW: I move:

Page 19, after line 27—Insert:
· The council must also publish a copy of the notice in a newspaper circulating within its area.

Clause 13 relates to the status of a council or change of various names and, as with the previous two, this amendment relates to the issuing of a public notice.

The Hon. T.G. ROBERTS: The Opposition supports the amendment.

Amendment carried; clause as amended passed.

Clauses 14 to 17 passed.

Clause 18.

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

Page 21, after line 33—Insert:
(3) A member of the panel must not, without the approval of the panel, divulge information that—
(a) the member knows to be commercially sensitive; or
(b) the panel classifies as confidential information.
Maximum penalty: $20 000 or imprisonment for 4 years.

I will not speak on the amendment, given that it has been supported.

The Hon. DIANA LAIDLAW: I accept it and will explain why. The Government is not opposed to restoring this provision of the current Act. The offence of divulging 'confidential' information was removed only to avoid any possible confusion, as there may be a conflicting duty in some cases—for instance, whistleblowing—while the offence of use of information for personal gain was retained, to be consistent with provisions applying to council members. So, we are relaxed about reinstating the provision from the current Act.

The Hon. IAN GILFILLAN: I understand that the Government is supporting the amendment. The Democrats have some discomfort with this. We believe that it may be unfairly restrictive and support a tendency to be intolerant of what are sometimes called 'whistleblowers'. From that angle we had concerns about this amendment and on balance we would have opposed it. I feel it is important that I make that contribution in the Committee's deliberations. Clearly it is insignificant in that, given the numbers, the amendment will be passed.

The Hon. DIANA LAIDLAW: I understand that the member for Elder raised this matter in the House of Assembly and that the Minister indicated at the time that he would be prepared to consider positively an amendment in this place if it was moved by the Labor Party. I understand the Hon. Mr Gilfillan's concerns, but this amendment relates to the panel and boundary adjustment matters. The whistleblowers matter about which he is concerned has really not been an issue in the past and it is unlikely to be so in the future. I will not say it is a non-issue, but we certainly do not take exception to it either way. I am happy to support the Labor amendment.

The Hon. T.G. ROBERTS: We certainly would not like this amendment to discourage whistleblowing of an honest intent, and I do not think it does. If a whistleblower at a local government level wants to blow the whistle on activities that that member feels are not honest, that is one thing but, as the Minister says, at the panel level it is not likely. There may possibly be some circumstances where commercial confidentiality has to be respected, but there are ways in which whistleblowers can get around the clause if they so wish. I do not think it is totally restrictive, but it certainly would make a whistleblower a little more tentative about the way in which they went about making public the information they wanted to get into the public arena. It certainly does not preclude a whistleblower from operating in an honest way.

Amendment carried; clause as amended passed.

Clauses 19 to 21 passed.

Clause 22.

The Hon. IAN GILFILLAN: I move:

Page 23, line 12—After 'councils' insert 'and members of the public'.

I propose to include the words in paragraph (b) so that it reads 'to assist councils and members of the public in the formulation, development and implementation of proposals under this chapter'. I signal that my next amendment is to insert after 'proposals' the words 'and submissions'. The reason for both amendments is that they will widen the scope of the panel so that if its advice to assist a council is deemed necessary, as it obviously is in the Bill, it is extended to offer assistance to electors who go to the trouble of preparing proposals or submissions.

The Hon. T.G. CAMERON: SA First supports the amendment.

The Hon. DIANA LAIDLAW: The Government supports both this amendment and the next amendment.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 23, line 12—After 'proposals' insert 'and submissions'.

The Hon. T.G. CAMERON: I support the amendment.

Amendment carried.

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

Page 23, lines 14 to 16—Leave out paragraph (c).

The Hon. DIANA LAIDLAW: The Government opposes the amendment. This amendment, in terms of the functions of the panel, seeks to leave out the capacity of the panel to conduct inquiries on matters referred to the panel by electors or potential electors and, if appropriate, to formulate proposals for the making of proclamations under this chapter. The Government believes that the provisions in the Bill that give electors this limited right in terms of initiating changes to council boundaries, composition and representative structure are important and we strongly oppose the Labor Party's amendment.

The Hon. IAN GILFILLAN: I am advised that this is really a preliminary amendment to a major amendment that the Opposition has in train to delete clause 28, which would remove the capacity for the public to make submissions regarding local government boundaries. We are not prepared to go that far. I have amendments on file that indicate that we intend to lift the bar so that it is more onerous for the general public to make a submission regarding boundaries. We still believe that that is preferable to eliminating their capacity to do it under any circumstances. With that in mind, by indicating opposition to this amendment it really signals our opposition to the Opposition's major amendment later in clause 28.

The Hon. T.G. CAMERON: SA First opposes the amendment. I have had no submissions put to me by the Labor Party in support of its amendment, so I will support the Government.

Amendment negatived; clause as amended passed.

Clauses 23 to 25 passed.

Clause 26.

The Hon. IAN GILFILLAN: I move:

Page 25, lines 28 and 29—Leave out 'the management of environmental issues' and insert 'sustainable development, the protection of the environment'.

This is another amendment where, after deliberation, we suggest that certain words be replaced. It is along the lines of putting an emphasis on sustainable development, as I have argued previously. I do not intend to bore the Committee by going over it every time an amendment of this nature crops up, unless members ask questions.

The Hon. T.G. CAMERON: SA First supports the amendment.

The Hon. DIANA LAIDLAW: The Government supports the amendment.

The Hon. T.G. ROBERTS: The Opposition opposes the amendment.

Amendment carried; clause as amended passed.

Clause 27.

The Hon. IAN GILFILLAN: I move:

Page 26, lines 33 and 34—Leave out all words in these lines after 'substance of the proposal' in line 33.

This amendment removes from the panel the option to subjectively determine whether a proposal should be given public notice. To further explain it, the subclause relating to council initiated proposals provides:

> On the submission of a proposal to the panel, the panel must cause public notice to be given setting out the substance of the proposal. . .

The words that I want to delete are:

> . . . unless the panel determines that the proposal relates to a matter or matters of only minor significance that will attract little community interest.

That is a subjective judgment. I do not believe that it is an onerous obligation that any of these submissions in respect of a proposal be given public notice. It means that no-one can complain that certain information was kept from the public because the panel made a determination with which it did not agree.

The Hon. DIANA LAIDLAW: The Government accepts the amendment. It removes the panel's discretion not to give public notice of a council initiated proposal which the panel has determined is of minor significance and which will attract little public interest. It is contrary to suggestions in the board's 1998 report that a more flexible fast track system is required for minor amendments. It nevertheless is consistent with the current provisions, and on that basis the Government is prepared to accept the amendment.

The Hon. T.G. ROBERTS: In line with the Labor Party's position on previous principles around the panel, we oppose the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 26, after line 34—Insert:

· The panel must also publish a copy of the notice in a newspaper circulating within the area or areas of the local councils.

This relates to council initiated proposals and expands the requirement for the Boundary Adjustment Facilitation Panel to give public notice of a council initiated proposal so as to include notice in a paper circulating within the areas of the affected councils.

The Hon. T.G. CAMERON: SA First will support the amendment.

The Hon. T.G. ROBERTS: The Opposition supports the amendment.

Amendment carried; clause as amended passed.

Clause 28.

The Hon. DIANA LAIDLAW: I move:

Page 27, line 30—Leave out 'who' and insert:
, body corporate or group who or which

I have moved this amendment because there is some concern about the term 'who' in that it does not also relate to a body corporate or a group rather than simply one individual person. This amendment follows legal advice received on the interpretation of the definition of 'elector' in the current Act which suggests that the word 'person' does not cover groups.

The Hon. IAN GILFILLAN: We support the amendment.

The Hon. T.G. ROBERTS: We support the amendment.

The Hon. T.G. CAMERON: SA First also supports the amendment.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 28, line 1—Leave out 'An eligible elector or' and insert:
A group of at least 20

I indicated in earlier discussion on a Labor amendment that I would be moving this amendment, which is quite substantial, because we accept that there should be scope for a public initiated submission but that it should not be just at the whim of an eligible elector, if I might say so without being too insulting. Under this amendment, at least 20 eligible electors would need to join together to make a submission that a council would be required to consider.

The Hon. T.G. CAMERON: SA First indicates that it will support the Democrats' amendment. My initial reaction to the amendment was to oppose it but, after spending some time with the Hon. Ian Gilfillan, he was able to persuade me to support it, which I will be doing.

The Hon. T. CROTHERS: I reluctantly support the amendment. I have some fear of the ever-increasing tendency of minorities to be able to get into a position to give effect to particular situations so they can be further canvassed and discussed. At a time when the world's population is increasing willy-nilly and the time for strong central Governments is ever more required, I feel that should this matter at local government level branch into Government at State and Federal level it would create many more problems than it would resolve. We have already seen how difficult the art of governance is with all the groups who, if they are opposed to something, get together, give themselves a name, and stand in opposition to all sorts of positions.

It truly does no-one any good because, at the end of the day, it makes the art of governance almost impossible at a time when the world is crying out for good strong Government that will deliver not politically correct solutions but solutions that are correct in respect of what people's needs and requirements are. I understand what the honourable member is saying, and I reluctantly support it because it is confined to local government at this stage. As I said earlier, people in local government are already doing this if they happen to disagree with some plan that a council has proposed. On that basis, but with those caveats, I support the amendment.

The Hon. DIANA LAIDLAW: The Government supports the amendment.

The Hon. T.G. ROBERTS: The Labor Party supports the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 28, line 7—Leave out 'the' and insert 'a'.

This is a drafting amendment.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 28—
Line 12—Leave out 'three' and insert:
five
Line 15—Leave out 'elector or electors' and insert:
electors making the submission
Line 23—Leave out 'elector or'.
Line 26—Leave out 'An eligible elector' and insert:
A group of eligible electors
Line 26—Leave out 'is' and insert:
are
Line 33—Leave out 'three' and insert:
five

The first amendment increases the number of electors representing the group making a proposal from three to five on the basis that, once again, it should be a more substantial representation of electors in such a matter. These amendments are linked together. The next amendment is purely grammatical in that, with the successful amendment of

changing the provision from an eligible elector to at least 20 eligible electors, the wording moves from the singular to the plural. The next amendment to line 23 has the same basis, as does the amendment to line 26. The amendment to line 33 replaces the number three by five.

The Hon. DIANA LAIDLAW: The Government supports all the amendments as outlined by the honourable member.

The Hon. T.G. CAMERON: SA First supports the amendments.

The Hon. T.G. ROBERTS: The Labor Party supports the amendments.

Amendments carried.

The Hon. IAN GILFILLAN: I move:

Page 29, line 14—Leave out 'person or'.

This is the same theme, because it deletes the singular, which is consequential on a previous amendment that I have just explained, that no longer can there be a single elector. There must be a group, so we take out the singular.

The Hon. DIANA LAIDLAW: The Government accepts the amendment.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 29, lines 18 and 19—Leave out ', unless satisfied that the proposal relates to a matter or matters of only minor significance that will attract little community interest,'.

Again, this amendment reflects an earlier amendment that it be an obligation of the panel to provide public notice and that it not be left to its own discretion to decide whether or not public notice will be given. As to this amendment to leave out the words 'unless satisfied that the proposal relates to a matter or matters of only minor significance that will attract little community interest', as I have argued before, I do not believe it is the role of the panel to make that determination and I believe that it should give public notice of all of the proposals that come before it.

The Hon. DIANA LAIDLAW: The Government accepts the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 29, after line 24—Insert:

· The panel must also publish a copy of the notice in a newspaper circulating within the area or areas of the relevant council or councils.

I have given an explanation on previous occasions for such a provision.

The Hon. IAN GILFILLAN: The Democrats support the amendment.

The Hon. T.G. CAMERON: SA First indicates its support for the amendment.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 29, line 25—Leave out 'If public notice is given under subsection (11), the' and insert:

The

This is consequential on previous successful amendments. It will not be 'if public notice is given', because it will be mandatory that public notice is given, and therefore the provision will start with the word 'the' with a capital letter.

The Hon. DIANA LAIDLAW: The Government accepts the amendment.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 29, line 27—After 'on the matter' insert:

or that a hearing is otherwise not warranted in the circumstances of the particular case.

The amendment makes a lot of sense when you come to put it together there; so I will not go into the explanation. It is consequential.

The Hon. DIANA LAIDLAW: I advise that the reason I support this is that it preserves the panel's discretion not to proceed automatically to public hearing following public notice and consideration of submissions.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 30, after line 26—Insert:

· The panel must also publish a copy of the notice in a newspaper circulating within the area or areas of the relevant council or councils.

Again, this relates to public notices of a panel determination.

Amendment carried; clause as amended passed.

Clauses 29 to 32 passed.

New clause 32A.

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

Page 35, after line 17—Insert new clause as follows:

Expiry of Part

32A. This Part expires on the second anniversary of the commencement of this section.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. The amendment seeks to ensure that this part of the Bill, to become an Act, expires on the second anniversary of the commencement of this section. We argue that it is unnecessary to have such a sunset clause. I also advise that the process for consideration of proposals, especially any based on elector initiated submissions, does take some time and would barely have a chance to see any effect of any revised provisions before it was necessary to then review those provisions.

The Hon. IAN GILFILLAN: The Democrats will oppose the amendment. We believe that reviewing the process will be automatically conducted and that, if there is enough reason to revisit the Act, there is nothing wrong with an amending Bill being introduced after consultation with the LGA and after consultation with other interested parties. So we do not see the need for a sunset clause.

The Hon. T.G. CAMERON: SA First will be opposing it.

New clause negatived.

Clauses 33 to 43 passed.

Clause 44.

The Hon. IAN GILFILLAN: I move:

Page 42, after line 32—Insert:

(6a) A person is entitled to inspect (without charge) the record of delegations under subsection (6) at the principal office of the council during ordinary office hours.

(6b) A person is entitled, on payment of a fee fixed by the council, to an extract from the record of delegations under subsection (6).

This applies to the right of inspection of the record of delegations under subsection (6), and subsection (6) provides:

The council must cause a separate record to be kept of all delegations under this section, and should at least once in every financial year review the delegations for the time being in force under this section.

My amendment spells out how a person is able to inspect the record of these delegations, on the firm conviction that it should be clearly and easily available to the public, clearly on the public record; so there is both a subclause (6a) and a subclause (6b). Subclause (6a) entitles a person to inspect the record of delegation free of charge, but if the person does

require a copy from that record then a fee can be charged by the council, and that is covered in new subclause (6b).

The Hon. DIANA LAIDLAW: The Government accepts the amendment.

Amendment carried; clause as amended passed.

Clause 45.

The Hon. IAN GILFILLAN: I move:

Page 43, after line 3—Insert:

(1a) Subject to subsection (2), the principal office of a council must be open to the public for the transaction of business during hours determined by the council.

This amendment requires a council to keep the principal office open so that the public can have access to it. Although the Bill requires a council to nominate a place as its principal office for the purposes of this Act, there is no stipulation as to what hours that office should be open. I remind members of the Committee that subclause (2) provides:

A council should consult with its local community in accordance with its public consultation policy about the manner, places and times at which its offices will be open to the public for the transaction of business, and about any significant changes to these arrangements.

The Hon. DIANA LAIDLAW: The Government accepts the amendment.

The Hon. A.J. REDFORD: I take it that the Local Government Association does not have any problems with this and that it will not affect a small council which has a perfectly adequate arrangement contrary to this clause?

The Hon. IAN GILFILLAN: That is a fair question to ask. The indication we have from the Local Government Association is that, although it did not initiate the amendment, it does not oppose it. The Hon. Angus Redford will note that the wording of the provision, even as amended, does have some latitude and therefore does need some consideration.

Amendment carried; clause as amended passed.

Clauses 46 and 47 passed.

Clause 48.

The Hon. DIANA LAIDLAW: I move:

Page 46, after line 3—Insert:

(3a) A report under subsection (1) must be prepared by a person whom the council reasonably believes to be qualified to address the prudential issues set out in subsection (2).

This amendment clarifies that the report on prudential issues required under this clause is to be obtained from a suitably qualified person, not necessarily an 'independent person', as provided in the Labor Party's amendment. This means that a council can consider a report prepared by staff if it is judged that that is sufficient in the circumstances. The provision requires a report but it does not require, as the Labor Party's amendment does, the council to go outside and pay for the report to be done if there is a suitably qualified person on staff who can do it. We are both addressing the same issue but we are saying that, if there is a suitably qualified person on staff, they can do the report.

The Hon. T.G. CAMERON: What is the Labor Party doing?

The Hon. T.G. ROBERTS: My instructions are to continue with the proposed amendment. The Party's position in relation to this clause is that we include 'independent person'. If the Minister's amendment is passed, as it appears it will be, we will withdraw our amendment.

The Hon. IAN GILFILLAN: I support the Opposition's inclusion of the word 'independent', and I am doing it not necessarily for the deep love I have for the Hon. Terry Roberts but for the wisdom of the word. According to subclause (2)(f), this report is to cover the recurrent and whole-of-life costs associated with a project, including any costs arising out of proposed financial arrangements. In those circumstances there is very good reason for a council to cover itself by having a person who is arguably independent put that report together. A responsible council will comply with that in any case.

As to the semantics of whether or not that person is a part of or in some other way involved in council work, the council will be able to make that determination and argue to justify its choice of person. The down side of not having the word 'independent' as a qualification is that a council could be subject to criticism that it had someone prepare a report who had a vested interest or who was biased in these assessments with a slant in favour of either the council or certain aspects in the council.

If members look at the prudential issues as listed in subclause (2), they will see that they are, in terms of any sort of project, quite involved and detailed assessments. Although it may not be significant at the end of the day, I would like it on the record that the Democrats support the inclusion of the word 'independent' as proposed by the ALP.

Amendment carried; clause as amended passed.

Clause 49.

The Hon. IAN GILFILLAN: I move:

Page 47, lines 21 and 22—Leave out subclause (4).

I believe that this is a vacuous clause at best and a dangerous clause as worst. How can a policy be consistent with any principle or requirement which is not spelt out in the Bill but prescribed by regulations which, as everyone knows, can come out of the air from a particular Government of the day? This clause should be cut right out of the Bill.

The Hon. T.G. CAMERON: SA First supports the amendment.

The Hon. DIANA LAIDLAW: The Government opposes the amendment to leave out subclause (4). The amendment removes the power to make regulations in relation to proposals or requirements with which council policies on contracts and tenders must be consistent. The scheme (as proposed) gives councils the opportunity to create and adopt appropriate policies with the assistance of models and guides provided by the Local Government Association, but it also retains the capacity to make regulations on the basis of the experience of policies adopted by councils that are deficient in practice.

The Hon. T.G. CAMERON: I have not been here as long as the Hon. Ian Gilfillan, but I would like to place on the record my concern about the way in which the Government uses the regulation process, and again I refer to the unilateral and high-handed way it changed the regulations in relation to the marijuana legislation without any consultation and reference to the public and based on very limited advice. I am more than happy to support the Hon. Ian Gilfillan's amendment on this occasion.

The Hon. T.G. ROBERTS: We oppose this for the same reasons in respect of the ability of the Government to carry out some of those mechanical changes. We oppose all of clause 49 but, if we have to move an amendment to change its thrust if it is carried, we will. We certainly do not want regulation to be the driving legislative process for change when the Government knows that it cannot get certain legislation through the Parliament and it uses regulations as a form of *de facto* legislation.

The Committee divided on the amendment:

AYES (11)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Gilfillan, I. (teller)
Holloway, P.	Kanck, S. M.
Pickles, C. A.	Roberts, R. R.
Roberts, T. G.	Xenophon, N.
Zollo, C.	

NOES (8)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T.	Laidlaw, D. V. (teller)
Lawson, R. D.	Redford, A. J.
Schaefer, C. V.	Stefani, J. F.

PAIR(S)

Weatherill, G.	Lucas, R. I.

Majority of 3 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 50.

The Hon. IAN GILFILLAN: I move:

Page 48, after line 14—Insert:

(3a) However, a public consultation policy for a case referred to in subsection (2)(a) must at least provide for—

(a) the publication in a newspaper circulating within the area of the council a notice describing the matter under consideration and inviting interested persons to make submissions in relation to the matter within a period (which must be at least 21 days) stated in the notice; and

(b) the consideration by the council of any submissions made in response to an invitation under paragraph (a).

This is a new ingredient of the local government legislation and places an obligation on councils to establish a public consultation policy. Members will see that the Bill spells out various actions that a council is obliged to take in compiling and amending its public consultation policy. This amendment seeks to provide to the local government community a wider awareness of this policy.

The Hon. DIANA LAIDLAW: I had to have consultations with the Hons Terry Cameron and Trevor Crothers, because our attitude to this amendment moved by the Hon. Ian Gilfillan reflects the fate of identical amendments in the name of the Hon. Terry Roberts. I understand that the Hon. Terry Cameron will support identical amendments related to public consultation processes and the Government will lose them. On that understanding, I must accept this amendment on public consultation processes, but with some reluctance. I do so only because we have lost our capacity under subclause (7) to make regulations under this clause.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 48, line 22—After 'State' insert:
and in a newspaper circulating within the area of the council

This expands the requirement for a council to give public notice of its intentions to adopt, alter or substitute a public consultation policy.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 48, lines 29 and 30—Leave out subclause (7).

This is identical in intention to the earlier amendment where subclause (4) was taken out of clause 49. I repeat that we regard the obligation that the public consultation policy be consistent with the principle or requirement prescribed by regulations as being totally inappropriate. I therefore propose that it be deleted.

The Hon. T.G. ROBERTS: We have an identical amendment on file, so we will support the Hon. Ian Gilfillan's amendment and will not proceed with our amendment. On the same principle as applied to clause 49(4), we indicate that the LGA and the Labor Party do not see any need for this to be governed by regulation.

The Hon. DIANA LAIDLAW: The Government opposes the amendment.

Amendment carried; clause as amended passed.

Progress reported; Committee to sit again.

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 7 July. Page 1608.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. This Government was elected on a pledge not to increase taxes. It was also elected on a pledge that it would never privatise ETSA, and we all know what has happened to ETSA and we also know that the Government has increased its tax grab to close to $1 billion. Nearly half of that—almost $500 million—has occurred in the past two budgets. A sizeable proportion has come from the wallets of motorists, and I will elaborate on that later. This budget includes more cuts for our schools and hospitals, yet more spending on consultants and public relations practitioners. The sale of ETSA will be a consultants' jamboree. It has already proved to be that, with the Treasurer admitting that the ETSA lease process has already cost taxpayers more than $38 million, and the meter is still running.

This budget contains what will become known as the real tragedy of the late 1990s in South Australian politics: the 97 year lease of ETSA. This lease will give real ownership and control of ETSA to foreign investors, who have no interest in the welfare of the people who live in South Australia. Foreign ownership means that profits flow overseas, just like South Australian water. Profits are not retained in South Australia to help pay for our hospitals, schools and roads.

It is interesting to note that the emergency services tax which was introduced on 1 July is hitting people very hard in South Australia. I get a number of calls from people, particularly in relation to the levy through motor vehicle registrations. In one of its bulletins the RAA has pointed out that South Australians are sick and tired of being treated as wallets on wheels. The $32 emergency services tax on motor vehicles is additional to the $115 a year increase that motorists have paid on their compulsory third party premiums, stamp duty registration fees and licence fees since the Government came to power in 1993-94.

The emergency services tax is also totally devoid of any equity when it comes to its application to motorists. Is it fair that a semitrailer, which presents a far greater emergency services risk, is taxed at exactly the same rate as a family sedan? Clearly, the vehicles have very different risk profiles, but this Government will not let commonsense stand in the way of its greed.

According to figures released by the RAA, the annual fees and charges on a six cylinder car have risen from $368 in 1993-94 to $483 in 1998-99. How much more can the Government expect to squeeze out of families? Sadly the Government's track record in the delivery of public transport services is another area of community disappointment. It is also a perfect example of how not to run the system.

During this year's Estimates hearings the Minister announced a disastrous projected decline in patronage for 1998-99 of 5 per cent. This is on top of a 1.7 per cent decline in 1997-98. People are talking with their feet (or perhaps their wheels, as they are driving their own vehicles) and expressing their lack of confidence in the Government's management of public transport services in this State. Research undertaken by my office in April demonstrates that since the Government came to power the cost of an all times multi-trip zone ticket has risen more than 30 per cent, representing a $260 a year increase. Obviously the Government was left with no choice but to freeze fares for 12 months in an attempt to get people back on to public transport. I certainly support people using public transport, but I understand that the introduction of the GST will cause an additional 10 per cent increase in bus fares.

In the area of the arts the Minister proudly told the Estimates Committee that she managed to increase funding in real terms by an average of 2 per cent per annum over the past five budgets. That is not what I have heard. I am still waiting for the Minister to provide me with budget figures for the major arts organisations, but at least one I have talked to has had its grants maintained in dollar terms from last year. As everyone knows, this is very different from having an increase.

Incidentally, I wonder when we will get responses to the Estimates questions. I know that during the Minister for Transport's Estimates Committee an omnibus question was asked, to which we have not yet had a reply. The previous course of action taken by Governments of both political persuasions was that the Estimates questions were answered within two weeks of the last day of Estimates, but we certainly have not had that kind of response.

The arts sector has had to fund wage parity decisions out of its budget allocations. There are two issues in the arts of concern to me at the moment: the Lion Arts Centre and the planned move of Arts SA to a shop front location in Hindley Street. I make perfectly clear that I support the rejuvenation of the west end of Adelaide and the moves to Hindley Street—I am just concerned about some of the costs.

The Minister admitted during the Estimates Committee that a consultancy has been undertaken by the University of SA and Arts SA on any potential move by the university. It seems that time is of the essence, with the Fringe Festival approaching early next year. I am sure that it will want to be in new accommodation sooner rather than later. It seems that it is keen to move. I understand that not all of the tenants of the Living Arts Centre are quite as keen. While the Minister's advisers have said that there will be no compulsion, I want to know how it will work in practice. They are, after all, grant funded organisations who depend on Arts SA for grants money. If the University of SA wants to move in lock, stock and barrel, what room will be left for tenants who do not want to move? It is a sad move, given that the Living Arts Centre was built only a little under 10 years ago. I recall attending the opening by the Queen of the United Kingdom and currently Australia.

The other issue I raise is the plan to move Arts SA from Pulteney Street to Hindley Street to the building known as West Coffee Palace. Details in respect of this were also revealed in Estimates. I am baffled as to how Arts SA can spend more than $500 000 fitting out new offices, considering the landlord will already have carried out some work. Will furniture and other movable items such as chairs, filing cabinets, conference tables, desks and the like be moved from Pulteney Street? We are talking of more than $500 000 for 43 staff. It does not take a brain surgeon to do the sums. Even if we use the magic $500 000 figure, it works out to more than $11 600 per staff member.

It is also interesting that in the Estimates the CEO or Director of Arts SA, Mr O'Loughlin, revealed, in response to a question, that Arts SA will be paying for the fit out. He said:

> Out of a small pool we keep of uncommitted funds and the increase in rent.

He admits that that will be about $50 000 a year. He also said during the Estimates:

> . . . is to be financed out of some savings we were able to effect over the past couple of years, so it will not be at any cost to Arts SA programs.

I would very much like to know more about this little slush fund Arts SA has been keeping—stashing away money year after year for itself. I would also very much like to know how much has been stashed away, over how many years and how many capital works projects have had to miss out on this money so that Arts SA can make this move. While I concede that the Minister says that negotiations have not been finalised, I would very much like to know the details of the sticking point in the negotiations. It seems that there may be others more keen on the move than is the Minister.

Another issue I raise is the future of the Jam Factory. The Minister admitted during the Estimates that the Jam Factory received a cash flow loan of $120 000, repayable over three years. Some concern has been expressed in the arts community and many people in the arts have queried whether the Jam Factory has lost its focus. I certainly would not want it to disappear from the South Australian scene. It presents craft to South Australians and to national and international visitors in an excellent way.

On the positive side, I was very pleased recently to meet with the next Artistic Director of the Adelaide Festival, Mr Peter Sellars. We are in the middle of a two year festival reign of the wonderful Robyn Archer. I very much look forward to next year's festival, just as I look forward after that to the different and exciting vision Mr Sellars will bring to our world renowned festival. I also congratulate Greg Mackie for his foresight in having the Festival of Ideas. I attended over the weekend a few weeks ago a very exciting festival—certainly it was very intellectually challenging—and South Australians and interstate visitors that I talked to thought it was a wonderful idea. I am certainly pleased that the Government supported it. I congratulate the Government and the sponsors for allowing this initiative of Mr Mackie to go ahead. I certainly congratulate all the people involved in putting together this terrific festival.

I was also pleased to read the report of the economic effect of the *Ring* cycle. This Council previously moved a motion, supported I think by all members in this Chamber, congratulating the people involved in the *Ring* cycle. It was a wonderful event and I am pleased to see that it had an economic multiplier effect. I understand that discussions are going on as to whether we will have the *Ring* cycle again in South Australia, whether it is in three or five years. I would certainly support any moves to bring it back to South Australia. Wagner may not be everybody's cup of tea, but it certainly puts Adelaide on the international arts map, and it is very important that we retain that cutting edge.

Certainly anyone in South Australia who was involved with the last Festival of Arts and who is involved with the

rapidly approaching next festival will put in an enormous amount of work. I am pleased that the Government continues its commitment to this very important festival.

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

GEOGRAPHICAL NAMES (ASSIGNMENT OF NAMES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 July. Page 1562.)

The Hon. P. HOLLOWAY: The Opposition supports this Bill, although it will move a minor amendment to it. The Bill seeks to amend the Geographical Names Act 1991, which regulates the naming of geographical names in this State. Geographical names legislation is necessary in order to unambiguously define and identify locations for transport systems, emergency services, communication networks and the like. The naming of a suburb is often a complicated issue because of the varying interests involved in the process from local councils to residents and historians. I am sure that members would be aware that, when developers want to promote a particular area for development, they will often use estate names that do not comply with the allotted name under the Geographical Names Act.

I have been involved in this issue as a local member. Some years ago, before I was first elected to the House of Assembly, a significant local issue arose within the Mitchell electorate, for which I was then a candidate, in relation to the naming of part of Edwardstown, and I would like to briefly recount the story because it illustrates some of the difficulties in these issues. At that time the suburb of Edwardstown, which was and still is one of the largest suburbs in the metropolitan area, was divided by South Road. In other words, the suburb of Edwardstown stretched both east and west of South Road. It was raised by the emergency services in that area that, if a fire engine, an ambulance or police tasking had been undertaken to Edwardstown, those emergency services might not know which side of South Road to go—left or right. That was one of the problems that arose in that area.

In the end, the residents signed a petition, which was organised through Neighbourhood Watch and which ultimately got 90 per cent support of all the residents of the area of Edwardstown which was east of South Road to rename the suburb Melrose Park. They were successful—

The Hon. J.S.L. Dawkins: It duplicates the name of Melrose in the Mid North.

The Hon. P. HOLLOWAY: They were successful in having the suburb renamed Melrose Park in honour of Jimmy Melrose, a famous aviator who came second or third in the London to Australia air race in the 1920s. He used to fly from an airfield in the Edwardstown area. As the Hon. John Dawkins pointed out, there was some opposition from the Geographical Names Board and Australia Post because they thought that the use of the name Melrose, even Melrose Park, could be confused with Melrose in the Mid North. It was quite a complex process. I am pleased to say that the residents of that area won their struggle, and that area was renamed Melrose Park. As far as I am aware, the sky has not fallen in and the letters that are sent to people in Melrose Park are reaching their destination.

The Hon. M.J. Elliott: Then the show *Melrose Place* started on TV.

The Hon. P. HOLLOWAY: That is when things did go downhill.

The Hon. M.J. Elliott: Now they want to change it again.

The Hon. P. HOLLOWAY: Perhaps that is the case. I recounted that example because it brought home how complex this issue is. One of the motivating factors of residents is that a change of name might be beneficial in terms of increasing the value of their property. These are very difficult issues and it is important that we have streamlined processes to deal with them.

In general, there is a process that must be followed when a suburb or boundary name changes. This involves advertising within the local community and giving a notice period of one month in order to receive submissions. These submissions are then investigated by the Surveyor-General and the Geographical Names Advisory Committee, with recommendations forwarded to the Minister for a decision. If the change of name is accepted, it is gazetted. The purpose of the Bill is to make the process more streamlined so that minor changes of boundaries can be made without the need for advertising or notice in a broad sense.

Under proposed new section 11B(4), the Minister need not comply with provisions relating to consultation if he or she is satisfied that the alteration is minor and non-contentious and if the views of interested persons have been adequately canvassed by some other means. New section 11B(2) relates to notification of a proposed change, and I give notice that the Opposition will seek to move an amendment to this clause during Committee. Annette Hurley, my colleague in another place, has consulted with the Local Government Association about this matter and I am sure that she will discuss this Bill in greater depth when it goes to that Chamber.

It is the Opposition's opinion that it is necessary to spell out the role of a local council in this process to ensure that, where there are changes of a minor nature, the Minister must take into account a local council's views in relation to a proposed change of name. I notice that in the second reading explanation the Minister stated:

> This amendment provides a streamlined approach to resolve such anomalies. Instead of advertising proposals that on the face of it are minor and non-contentious, direct contact will be made with the local council, emergency service organisations and the property holders impacted upon by the change.

The Minister mentions the local council but it is not spelt out in the Bill that it should be part of the process. The amendment that I will move will simply ensure that what the Minister promised in the second reading explanation will be guaranteed through the legislation. That is the minor amendment that I will be moving. There are some other amendments that are technical and of a tidying-up nature that the Opposition believes it should support. With the proviso of the minor amendment that I have proposed, the Opposition supports the Bill.

The Hon. M.J. ELLIOTT: The Democrats support the second reading of the Bill and I indicate that, during the Committee stages, we will seek one minor amendment. I note that the Hon. Paul Holloway has addressed an amendment that he has placed on file that deals with this issue. This Bill is essentially about minor changes or changes which are considered to be non-contentious. We have received correspondence from the Local Government Association which indicates general support for the Bill. However, the LGA

would have liked an amendment to proposed new sections 11B(2)(d) and 11B(4) along the lines of inserting words like 'and any council constituted under the Local Government Act 1934 affected by the proposal' after the words 'interested persons'.

I believe that the amendment that the LGA requests has been essentially covered by the amendment put on file by the Hon. Paul Holloway and, during Committee, I will seek an indication as to whether that is what the Labor amendment responds to. Other than trying to ensure that, even with minor changes, at least the relevant council is consulted, the Democrats do not see any difficulties with the Bill.

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

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

STAMP DUTIES (CONVEYANCE RATES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 June. Page 1053.)

The Hon. P. HOLLOWAY: This Bill is part of the Government's budget measures, so the Opposition will support the legislation—as it consistently does. The Bill raises revenue of $7.5 million in 1999-2000 and $8 million in a full year by increasing the conveyance rate on the sale of any property which exceeds $500 000 in value. This duty will largely fall on commercial property given that few residential properties that exceed $500 000 in value are sold each year.

During the Appropriation Bill debate, I will have more to say about the Government's financial history, particularly its propensity to tax. State taxes have risen by at least $1 billion per year under the five Liberal budgets. This year we have the $140 million emergency services levy charge, fees have been increased by more than the CPI, and we also have this $8 million increase. One of the questions that arises in this debate is what will be the future of this tax following the introduction of the GST?

I would like the Treasurer during his reply to perhaps indicate what the future of this tax will be after the introduction of the GST. With the pre Meg Lees GST, that is, before food was exempted, the legislation of the Commonwealth involved the abolition of a raft of State taxes.

The post Meg Lees GST, with a reduction in the quantum of the goods and services tax passing to the States as a result of the exemption of food, makes that situation less certain.

Will the Treasurer in his response clarify the situation in relation to the future of this and other taxes of a similar nature following the changed arrangements to the Commonwealth goods and services tax? It is farcical that the Commonwealth should classify the goods and services tax as a State tax, as it does. Last month, in the July edition of the *Adelaide Review*, there appeared a very interesting article by former Treasury Secretary John Stone, in which he made significant points about that matter. I will refer to a small part of his lengthy article—

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: No, not at all.

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: I do not often agree with what he says, but he does make some very interesting points occasionally and I think on this occasion it is worth looking at.

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: That is not the point he is making. He attacks the classification of the goods and services tax as a State tax, saying:

> Late last year the Treasurer and the Minister for Finance and Administration, pursuant again to the apparently now questionably named Charter of Budget Honesty Act 1998, produced the Mid-Year Economic and Fiscal Outlook 1998-99. Table 1 contains the following revealing footnote:
>
> > Revenue estimates from 2000-01 reflect the impact of. . . the income tax cuts and the abolition of the wholesale sales tax. The GST does not have an impact as it is treated as a State-Territory tax.

The same point is explicitly made later in the text:

> How convenient. If the Commonwealth Government wishes to claim virtue for reducing even further the tax burden it allegedly imposes on us, why not treat the income tax (or part of it) 'as a State-Territory tax' also? After all, there would be some historical basis for that: the States surrendered their own income tax administration to the Commonwealth during World War II, and the Commonwealth subsequently welshed on the deal by refusing to make way for a post-war resumption of State income tax. So in some sense, part of the present income tax receipts can be thought of as 'a State-Territory tax'.
>
> If you were to regard that as absurd, you would be right. But it is no more absurd (and I suggest somewhat less so) than the claim that a new tax, devised by the Commonwealth, imposed by the Commonwealth Parliament, and unable to be varied without the agreement of that Parliament, should be seen—and appear in the Commonwealth's accounts as—a State-Territory tax.

His article continues in that vein, but the conclusion he draws is most interesting and is as follows:

> On 9 April last the Prime Minister, the six State Premiers, and the Chief Ministers of the two Territories, solemnly signed an Inter-Governmental Agreement on the Reform of Commonwealth-State Financial Relations. (The full text, including the facsimile signatures of these nine worthies, is published at Appendix B of Budget Paper No.3. . . Barely two months later, and without a word of consultation with the State Premiers, the Commonwealth effectively tore up that agreement via its deal with the Democrats. (The Secretary to the Treasury has, reportedly, since been trying to get his State Treasury counterparts to accept a revised agreement to which their Ministers can again dutifully sign up.)

The point was that the deal which was arranged with the Democrats and about which we were talking related to a tax that is classified in the Commonwealth budget papers as a State-Territory tax. The idea was supposed to be that the States would have control of it. Clearly, that is not the case. That point is worth putting on the record and the Treasurer should provide to the Parliament an explanation of what impact those changes to this supposedly State-Territory tax will have in terms of the future of this measure before us today. Given that the reduction in the take due to the removal of food, as I understand it, is about $3 billion or $4 billion, clearly that will have considerable implications for the State budget. I will not pursue that issue further.

The Bill before us is a fairly simple one. As I said, it increases the conveyance rate on property above $500 000. The Opposition will support the budgetary measures, as it always does, but ultimately the Olsen Government will be judged by the people on this and its other tax measures.

The Hon. M.J. ELLIOTT: I rise on behalf of the Democrats to support the second reading of the Bill. I will make some comments about the Bill itself and then perhaps about the general context—as did the Hon. Paul Holloway in his contribution.

This Bill will increase stamp duty rates on high value properties. As I understand it, it is proposed to be a short-term initiative and that stamp duty should be abolished by the years 2005-06 as part of the phasing in of the GST. The Bill, which amends the Stamp Duties Act 1923, will increase stamp duty from 4 per cent to 4.5 per cent for properties over the value of $500 000, and from 4.5 per cent to 5 per cent for properties over $1 million. It will raise $7.5 million in 1999-2000 and $8.1 million over a full year. It is argued that the Bill will have the greatest impact on commercial property and not residential properties.

The Labor Party continues to play a game it has played, I think to its shame, ever since it has been in Opposition this time around; that is, to attack the Government for anything that resembles a tax increase and to attack the Government for any cuts in expenditure. You cannot really play it both ways, as far as I am concerned. The Democrats have made it quite plain that, whilst it is fair to question the Government about whether or not it is spending its moneys efficiently (and I think a case can be made that it has not been efficient in its budgetary process), nevertheless we recognise that the State budget is under great stress. The stress is not just due to the Labor Party alone and what happened with the State Bank: the stress is also due to the vertical fiscal imbalance between Federal and State Governments suffered in this country—that, indeed, we are dependent upon moneys from the Federal Government for a large part of the budgetary process.

I recall that, in the budget papers last year, the Government provided figures that showed that Federal moneys coming to the States from 1992-93 up to the previous budget had been reduced by $1.2 billion a year. That impact on the State budgetary process is three to four times as great as the impact of the State Bank debt. I am amazed that the focus has remained on the State Bank debt over recent years when, in fact, cuts by the Federal Government to the States have put even greater pressure on the State budget—the sort of pressure that has led to cuts in public services and increases in taxes.

The Democrats have said consistently since the Liberal Government came to power in the election before last that we were prepared to support tax increases so far as they guaranteed the quality of the public sector being maintained. Unfortunately, we have seen a decline in the public sector because not enough revenue has been raised, as well as, I think, inefficiencies in the way in which the Government has run its budgetary process. It is not all the Government's fault, but it does share some of the blame.

I am one of many Democrats who do support the GST package. In fact, all the State Democrat MPs here in South Australia support the GST package. One of the reasons why we support it is that it does offer real hope for a growth tax being available to the States. The GST, for the first time, rather than just taxing goods, will tax services, and that is the part of the economy that is growing. So, there has been an increase in tax pressure on the production side of the economy, which has probably accelerated its decline, while at the same time the sector of the economy which should be growing very rapidly—the services sector—is not being taxed at all.

So, that has been one of the reasons why at a Federal level there has been increasing pressure on income taxes and why bracket creep has been allowed to continue to work in the way it has. It is certainly true that, in the GST package which was negotiated and to which the Democrats agreed, State Governments will not be able to get rid of some of the taxes that would have gone immediately. But the GST is a growth tax and, as the services sector and economy grow, it will deliver increasing amounts of revenue to State Governments so that they will be in a position to start abolishing a number of these taxes that cause real problems.

I would have to say, however, that there is still some truth in what the Hon. Paul Holloway says—that one can never predict what future Federal Governments might do. However, what I have not heard from the Labor Party is what it would have done instead. What is its proposal about handling the vertical fiscal imbalance between Federal and State Governments? I have heard nothing at all about its alternative to the GST package.

The Hon. P. Holloway interjecting:

The Hon. M.J. ELLIOTT: It is true that it will be marginally negative for the first couple of years, and I am sure the Treasurer will provide more accurate figures on that, but there are offsets. As I recall, originally the States were to be responsible for moneys to local government, and that will no longer be a responsibility out of GST moneys. There were a number of offsets within the package, and that meant that the only matter of any consequence that had to be made up for was the GST lost on food. However, because this is a growth tax, within a very short number of years, whatever gap remains (and part of that shortfall would have been moneys spent paying for local government) will be made up for quite quickly.

So, I call on the Labor Party to stop complaining about tax increases whilst complaining about cuts in the public sector. If it has a different solution to the vertical fiscal imbalance it is about time it put that solution on the table. It is a major challenge for all of us, regardless of Party and regardless of politics, that constitutionally the States still have most of the important responsibilities. States still have to deliver most of the services that are important to people. It is the States that deliver health, education, roads, police and so on, yet the States themselves do not have the ability to raise the revenue to pay for them. Is the answer for income tax to come back to the States?

I note that in last year's budget papers the Government was even entertaining the thought of introducing a levy on income tax as a way of starting to correct that imbalance. It needs to be done; otherwise, we face the sorts of difficulties that emerged in the *Advertiser* this morning, with the National Competition Council telling us that it will cut moneys to the States unless we do what it wants. The States have increasingly lost their ability to make decisions on behalf of their own constituency.

As I recall, it was under Federal Labor that we saw the first real attempt by Federal Governments to tell State Governments what they could do. I recall very clearly that, when I came into Parliament, we had a vibrant public housing sector. What happened to that public housing sector? Keating and Hawke told the States how they could spend Federal and grant moneys and, in particular, they restricted their ability to spend it on public housing. That is why public housing disappeared in this State. Increasingly during those years the Federal Government started directing how the States could spend their moneys on behalf of their constituents. That process has accelerated under the recent Federal Liberal Governments, but it was certainly flowing very strongly at that point.

Until States have more control over their revenue, that will be an ongoing problem, and I suspect that the Hon. Mr Holloway and I can probably agree on that. Ultimately, the

challenge for all of us who actually believe in three tiers of government—and I am one of those people—is to ensure that each tier has a great deal of financial independence. At this stage we do not have it, and I recognise that some increases in taxes, such as this increase in stamp duties, is a necessary evil at this point.

The Hon. R.I. LUCAS (Treasurer): I thank members for their indication of support for the second reading. I might say that that is not always the case. The Hon. Mr Elliott knows that he and I are not always in agreement on issues. There certainly have been occasions when that has happened, and I am sure that there will continue to be, but let me at least acknowledge the genuineness of the Australian Democrats' position in relation to taxation and the need for taxation if one wants to maintain a position of continuing to argue for further and increasing public expenditure on quality public services. I have previously acknowledged the Hon. Mr Elliott's willingness to take what might be seen to be an unpopular position on this issue, and I do so again this evening.

I think that the honourable member and his Party, at least with credibility, can then argue in relation to the continued need for public expenditure in areas that I know are of importance to him and his colleagues, such as education, health and the environment. I hasten to say that in those areas I am sure we might, on occasions, continue to disagree about the extent and quantum of the revenue that must be raised or the expenditure that is required, but that is for another day.

The Hon. Mr Elliott, in highlighting the genuineness of his Party's position, has explicitly highlighted the hypocrisy of the position of the Australian Labor Party. I, too, have highlighted this on a number of previous occasions. I do not intend to spend a significant amount of our time this evening highlighting it again. However, to put it simply, here in the Opposition we have a Party, guided by its Leader and shadow Treasurer, which continues to oppose every expenditure cutback that the Government suggests; continues to oppose every significant privatisation, such as the electricity businesses, which will provide significant funding for Government through the budget process; and continues to support, as the Leader of the Opposition did, exorbitant pay increase claims from union leaders, such as the Fire Fighters Union, when he stood arm in arm with the leadership of that union on the steps of Parliament House supporting its 18 per cent pay increase claim.

The shadow Minister for Health also supported the nurses' pay claims, which were way and above that which the Government or the taxpayers could afford and, indeed, what we had budgeted for. So, on the one hand we have the Opposition's adopting all those positions, and then on the other hand they, through their public statements, direct mail letters and leaflets continue to attack the Government for raising revenue in any way to try to pay for the maintenance of quality public services in South Australia.

As I said, I will not repeat the gory detail of the hypocrisy of the Leader of the Opposition, the shadow Treasurer and the Labor Party on this issue, but certainly I agree with the Hon. Mr Elliott and the Australian Democrats about the hypocrisy of the Labor Party and the Labor Party position.

The Hon. Mr Holloway asked a question in relation to the future of the stamp duties increase. It is important to point out that, with the passage of time since the introduction of this Bill (which was back in May this year), there has been major change in the national tax reform debate as a result of the deal that was done between the Commonwealth Government and the Australian Democrats. As a result of that the situation is that the States, South Australia included, have at this stage given no commitment to the abolition of this stamp duty.

It was intended that it would be abolished in 2005-06, but as a result of the recent Commonwealth tax agreement the States, including South Australia, have indicated that they will give no commitment until they can assess how much extra we get from the middle of next decade onwards from the GST package. It will be for Governments at that stage to make a judgment whether there has been growth in the GST revenues and, if so, how that will be allocated. It will be a decision for those Governments to decide whether they want to spend it on additional public services or whether they wish to reduce or abolish a stamp duty base such as this one or reduce some other State taxation or State tax, such as payroll tax, for example.

I can certainly indicate—not that I am likely to be Treasurer in the year 2006—that, should I be confronting that position, I would certainly reserve my judgment. If we continue to see the eastern States reducing their pay-roll tax, it may well be that the State Government in 2006 and onwards may well have to look at the increased revenues from GST and allocate at least a portion of them to remaining competitive with the pay-roll tax base of the eastern States in the interests of both retaining businesses within South Australia and continuing to be attractive to interstate or overseas investment within our State. There will not be from this Government a commitment to abolish this stamp duty base now as a result of changes to the national agreement on taxation, but we will keep it under review.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Yes, we have signed a new agreement and it does not include a commitment to the abolition at any time of this particular tax base. While the Commonwealth position is that it would like to see all of these stamp duty bases that were to be abolished at some stage in future, the States are quite happy to have this issue continue to be reviewed and there is a provision within the intergovernmental agreement that talks about continued review of the agreement. Certainly the State is prepared to do that, whilst retaining ultimately the flexibility to make the decision the State believes is in the best interests of the State and the people of South Australia. I have responded to the questions the Hon. Mr Holloway asked. I thank members for their indication of support for the second reading.

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

STATUTES AMENDMENT (FINANCIAL INSTITUTIONS) BILL

Adjourned debate on second reading.

(Continued from 10 June. Page 1504.)

The Hon. P. HOLLOWAY: I indicate that the Opposition will support the measure. Over recent weeks we have debated a number of changes to the supervision of financial institutions that have come as a consequence of Commonwealth changes in the recent Wallis Committee report. The Bill before us today essentially deals with changes to Commonwealth legislation which enable credit unions and building societies to issue cheques in their own name. I indicate that I have an interest in this matter, as I have a cheque account with the CPS Credit Union. Under that credit union, cheques have been issued in the past through the

National Australia Bank. The credit union operates as an agency of that bank. That was the only way credit unions and building societies could issue cheques.

Under this amendment, credit unions and building societies will be able to issue cheques in their own name, and I believe that that is a positive move. Hopefully, it will lead in a small way to greater competition within the banking sector. Heaven knows, we certainly need more competition there, even if John Laws would not agree with me. There are a number of other changes in the legislation of a minor or technical nature which the Opposition has no reason to oppose.

One thing I note is that, following on from earlier changes to Commonwealth legislation, we now have to refer to banks, credit unions and other institutions of that ilk as ADIs, or authorised deposit-taking institutions. I am not really sure that the name ADI will really take on as an alternative to 'bank', but I guess we will have to wait and see. Certainly, as far as legislation is concerned we are now talking about ADIs.

Just as a final point, could the Treasurer indicate, because it is not quite clear from the explanatory notes to this Bill, whether there are any financial implications for the State in so far as this capacity for credit unions or building societies to issue cheques is concerned. I assume that it would be revenue neutral but, given that some of these agencies that credit unions might be using may be based interstate, there might be some impact for stamp duty on cheques. Could the Treasurer indicate whether there are any implications as a result of this change?

Certainly, as far as the Opposition is concerned, any measure which gives greater competition within the financial institutions sector or any measure which enables building societies or credit unions to operate on a more level playing field with the banks is something we support. The Opposition will support the Bill.

The Hon. M.J. ELLIOTT: On behalf of the Democrats, I support the second reading of the Bill. This Bill amends the Stamp Duties Act 1923, the Debits Tax Act 1994, and the Financial Institutions Duty Act 1983. The broad purpose of the Bill is to ensure that cheque duty, debits tax and FID continue to be collected in accordance with the current revenue base. The Commonwealth changed provisions relating to the issue of cheques so that banks no longer act as agencies for other financial bodies.

I have received letters of support from the various financial institutions which are affected by this legislation, although I am not sure that the banks wrote in support of it: they just did not write at all. It is proposed that this will increase competition and consumer choice, which might explain why the banks had nothing to say. The State Acts are being opened up to allow this change and, while open, this Bill allows clarification of exemptions that ensure that duty is not payable on revising errors or disallowed cheques. With those few words, I support the second reading.

The Hon. R.I. LUCAS (Treasurer): I thank members for their indication of support for the legislation. This is not earth-shattering legislation but it is important in its own right. The Hon. Mr Holloway raised one question as to what the revenue implications might be. The advice that I was provided with from Treasury was that the revenue implications of this could not be quantified, although the Treasury officers believe that they were unlikely to be significant. Their advice to me was that, although the revenue implications could not be quantified, failure to act on the Federal initiatives would result in reduced collection of debits tax and cheque duty in the event that credit unions and building societies issue cheques in their own right.

The frank answer to the honourable member's question is that Treasury and Revenue SA were unable to quantify exactly what the revenue implications might be, but I know that their judgment was that it was unlikely to be significant. Nevertheless, there really was not much option from the State's viewpoint in terms of moving down this path. With that, I thank members for their indication of support for the second reading of this Bill.

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

SUPERANNUATION (VOLUNTARY SEPARATION PACKAGES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 July. Page 1607.)

The Hon. M.J. ELLIOTT: On behalf of the Democrats, I support the second reading of this Bill. It amends the Superannuation Act 1988, in particular the amendments introduced in May 1993 in relation to special superannuation benefit options for those who accept a voluntary separation package (VSP). Currently under the 1993 amendments, these special options can be accessed in addition to the right to preserve the accrued benefit until age 55.

This situation is attractive to many. However, the basis used to calculate lump sum benefits sees the overall attractiveness declining. This Bill will allow people aged 45 or older to opt for the immediate payment of a pension, which will be paid at the level of the actual accrued pension at the time. The higher levels of employer subsidy have been extended to increase the lump sum benefits. The Bill also proposes that a component of lump sums, enough to satisfy the superannuation guarantee, be preserved to age 55. I note that this measure is supported by both the Superannuation Board and by the relevant unions and, for that reason, the Democrats support the Bill.

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

POLICE SUPERANNUATION (INCREMENTS IN SALARY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 July. Page 1608.)

The Hon. M.J. ELLIOTT: This might be an all time short speech. I support the second reading of the Bill. The current Act leaves open the possibility that an officer may not receive a superannuation package set at the level of their highest rank. That is an anomaly that was never intended in the original legislation. This Bill simply seeks to clarify that situation. Again, I understand that the measure is supported by the Police Association, and the Democrats are happy to support the second reading.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

APPROPRIATION BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1683.)

The Hon. CARMEL ZOLLO: As to be expected, the Treasurer's second reading explanation was the usual ideological rhetoric, although most of us would in general not disagree with the challenges outlined in his contribution. However, we do disagree with the manner in which this Government seeks to achieve those challenges. Since the Treasurer's contribution, we have had the passing of the Electricity Corporation (Restructuring and Disposal) Bill and, as one would expect, we now no longer have the Olsen Lucas blackmail power bill hike to assist the Government with its challenges.

I do not suggest that we in the Opposition would ever say that debt is not a problem. Debt is always a problem at some level, but it is a business of Government to manage it in a manner that causes the least impact on the community. A recent article on Victorian Treasurer Stockdale's legacy, written by Michael Salvaris, Senior Research Fellow, Institute of Social Research, Swinburne University, pointed out that in Victoria:

> . . . public debt, never very high by international standards, has been dramatically reduced; but in the process so have the assets and future public revenue of the Victorian people, while consultants pocketed up to $1 billion.

Mr Salvaris went on to say:

> On the social side, many serious problems result directly from the Stockdale-Kennett financial 'reform' agenda: in education and health, welfare and children's services, legal aid, local government and public transport, Victorians are relatively worse off.

Treasurer Lucas indicated that debt has to be serviced from a tax base that is growing slowly compared to a generation ago, but he is certainly right in saying that the borrowings of previous generations were necessary to fund the infrastructure needs of a growing population which, in turn, created growth in the tax base to service that borrowing.

As people are the single most important factor in generating demand and, hence, that tax base, I suggest that we should pay even greater attention to increasing our population. I commended the Government in my Supply Bill contribution on its initiatives in relation to Immigration SA. I hope that it continues with such a policy and that we have more positive results. I was pleased to see the Premier indicate as much in Estimates. However, I do not suggest that we go down the path of the Victorian Premier to go forth and multiply! Society and the role of women have changed somewhat in the last 20 years. I was surprised to read that the Prime Minister believed that Australia is in its third golden era. Even if it were true, the so-called golden era has come at a great price for many people—dry economic management that usually translates to high unemployment, low wages and to under employment for many people. Certainly, in one of those eras, the 1950s to the 1970s, we had high immigration growth and post war reconstruction.

Under the Bill's heading of 'Economic Conditions' it was pleasing to read that business investment in South Australia remains at relatively high levels by historical standards and that South Australia experienced solid economic growth during 1998-99, with strong household consumption spending playing a key part. The Treasurer also mentioned that, with the seasons having been good in relation to wheat and wine production, this understandably had been accompanied by solid growth in exports. The recent confusion that has surrounded the introduction of the wine equalisation tax can only detract from our great wine industry, and I placed on record my concern in relation to the imposition of this tax in a recent motion before the Council.

In one of his recent columns in the *Advertiser* Rex Jory also made mention of the brilliant wine sales and the great season of the rural industries, along with retail sales looking healthy and, of course, the stock market hovering around record highs. Mr Jory did go on to say that what worries him is that this is an economists' revival. He said:

> It is a recovery in statistical terms. While all the economic settings are pretty right, too few individuals seem to be benefiting. . . The next and vital step is to translate the economy of statistics, trends and indicators into making South Australia a better place to live.

Mr Jory went on by giving examples of the problems that face our community, from those in our health system to the unemployment rate of our young people. He rightly points out that a boom should not just benefit the well-off. A boom must provide advantages for everyone, and this is simply not happening at the moment. The question we should be asking is, 'Why?' Despite all these good things happening—and especially our low inflation rate—whether it is the Prime Minister or a newspaper editor telling us, far too many people are doing it tough. Even our inflation rate appears to be a bit of a joke. Certainly, in relation to grocery prices I am assured that many manufacturers have learnt the art of reducing the content of many items by quantity or weight but still charging the same or even higher prices. I came across just such an example in cosmetics the other day.

The two areas of this budget that have brought the most communication with my office are the emergency services levy and the health budget. When I spoke on the Emergency Services Bill last year, like all my colleagues in the Opposition, I cautiously supported it, because we all recognised the need for change in the manner in which our emergency services were funded. However, I stressed at that time that I thought the Bill did not address the ability for all consumers, particularly those people on low or fixed incomes, to be able to pay. The Government has partially addressed the needs of pensioners with its real estate levy, but for the other groups it is an enormous burden. As I have indicated on previous occasions, the levy is nothing more than a land tax on every family home.

I do not believe that we were told at the time of passing the legislation for the emergency services levy exactly how it was to be administered and the level of levy to be applied, other than the fact that it would replace levies that consumers were paying via their home and contents insurance, car insurance and local government rates. While technically not a regressive tax, it replaces the existing fire services levy on insurance companies with a levy to be paid by owners of fixed and mobile property, regardless of whether they are insured. It should not surprise anyone that the majority of people who are not insured—about 30 per cent, either for home and contents or vehicle—would be people who simply cannot afford it and opt to take the risk. An ordinary family living in suburbia, often running two cars, living in an average home, is looking at $32 per car and apparently an average of $115 on their home. Whilst people have started to receive their car levy with their registration renewal notices, we have still to wait and see as far as the property levy is concerned.

However, what is most confusing—and no doubt deliberately so—is the orange coloured pamphlet titled, 'How the emergency services levy works for all South Australians'. It tries to show that the difference between the old fire levy and the council contributions paid in the past financial year, and a proposed 25 per cent increase for the next financial year compared to the actual proposed new levy, will be almost negligible for a suburb such as Elizabeth and country areas, and a net resulting increase of $71 for a $190 000 value house. This is very misleading and a distortion of the truth.

First, we must trust the Government that there would have been a 25 per cent increase in the fire levy under the old system. Secondly, it says that Adelaide based residents would have paid about 22 per cent of their home and contents insurance policies as a fire services levy. I do not know how the Government arrives at that figure. In the case of my property, I was paying about a $30 levy on a combined house and contents insurance policy costing about $400—hardly 22 per cent of my insurance policy. Perhaps it meant 22 per cent of the house value, which would have been more like it.

Thirdly, it is totally misleading to combine the individual fire insurance levies with the levies paid by councils. Whilst fire levies were identified separately on insurance policies and have been deducted from the cost of this coming year's policies, there has never been any such identification on council rates. People will shortly start receiving their annual council rates, if they have not already, and I am sure that no-one will receive any noticeable reduction in their total bill this coming year. We all know that in a few months more homeowners will, on the Government's own figures, receive an average emergency services levy of $115 which, together with the flat $32 per car levy, will be a huge new impost on most families. For people who were previously insured, the net impact is slightly less than $115.

The greatest confusion in people's minds and which is made even more confusing by the Government's propaganda pamphlet is the amount of levy that will be charged compared to what people paid before. Of course, the car levy is a flat one, regardless of means and income. Given the enormous blow-out in improving the communications network and its administration, there is much cynicism in our community as to whether this property tax is about more fairly paying directly for our emergency services or paying for the Government's financial mismanagement.

These concerns have also been expressed by organisations such as the RAA. In correspondence received from the RAA, it is claimed that the State Government is grabbing an additional $60 million from South Australians compared to the revenue raised by the previous system. The letter—no doubt received by all members—is fairly damning and reflects the concerns and many questions I certainly have had asked of me as an elected representative. Those concerns are probably best summed up in the following quote:

> In 1998, the average RAA insurance motor vehicle policy in the metropolitan area was around $400 and 1.5 per cent or $6 was contributed to emergency services. The new levy represents a fivefold increase yet there are more people now paying the levy compared with the old system. How can such a significant increase be justified?

I remember saying last year in my speech on the Appropriation Bill that a normally conservative association such as the RAA was criticising the Government over its imposts on motorists. The situation has got worse this year as a result of the large increase in stamp duty and now the emergency services levy.

The question we all need to ask is, again, the one asked by the RAA: how much of the levy will go to each emergency service and how do these amounts compare with previous years' budget requirements? Until the Government apparently abandoned its plan, the Local Government Association was similarly unimpressed by what seemed to be a lack of cooperation in the manner in which the councils retained for community benefits moneys which were previously applied by councils to the provision of emergency services.

Along with other members, I recently received representations from the South Australian Farmers Federation which expressed concern at the impact that the levy will have on the agricultural sector. Like all members, the federation recognises the need for the introduction of a levy to improve the level and quality of services but believes it must be a fair and equitable system of funding emergency services.

As I indicated earlier, the other area in which constituents have expressed the greatest concern is the human services area. The Treasurer mentioned in his speech in a most inventive way the $46 million shortfall in the health portfolio, and he said:

> Despite a 4.5 per cent increase in funding for 1999-2000, the health portfolio will have to achieve savings of around $46 million from the level of real spending that occurred in 1998-99.

I was at a community meeting the other night, and the kindest thing that the participants could say about Minister Brown was that at least he was honest enough to admit there were problems whereas, apparently, his predecessor was not as forthcoming. The $46 million shortfall can only translate to reductions in health services. It is remarkable that our health system, which is already overstretched, should have further reductions in its budgets.

Of course, something had to give in our health system. The current crisis is a direct result of huge cuts to the health budgets by both State and Federal Governments, yet all they can do is blame each other. I say that they are both to blame for the crisis. All the Premier can do is suggest selling another Government asset to solve the crisis.

However, I am pleased to see a better acknowledgment of the needs of the mature aged unemployed in our community as well as the need to look after our youth. Whilst I certainly welcome the mature aged support programs and the Moving Ahead initiative, in general the aged and disabled have, again, been neglected. I notice that Minister Lawson has apparently responded to the concerns of Parents Advocacy by indicating that he was lobbying the Federal Government for more funding for State services. Parents Advocacy is seeking $25 million to assist in accommodation and carer support for the intellectually disabled. I have previously spoken about this group in Matters of Interest following my attendance at a forum which the group organised. I hope the Minister is successful on its behalf.

In relation to country South Australia, I am certain that the setting up of $4.5 million per annum over three years for a new regional development fund is very welcome and, hopefully, goes some way towards remedying the removal of Federal funding in the regional development area. Of all the recommendations in the report of the South Australian Regional Task Force of April 1999, probably none would be more important than a strong injection of such funds. As the Statutory Authorities Review Committee (of which I am a member) is in the process of inquiring into South Australian Community Housing Authority, it is probably not appropriate for me to be widely canvassing the housing requirements of those who need access to public housing other than to say that

I will be keeping an eye on what 'improving targeting of human services to those most in need' will actually translate to.

The Labor Opposition has estimated that tax increases in this budget equate to nearly $130 extra a year for every man, woman and child in the State, with an overall increase in taxes, fees and fines of almost $1 000 million since the election of this Government in 1993. As we are now in July, the South Australian community will commence to pay for all these latest increases in taxes and charges as well as the new taxes.

The Hon. M.J. ELLIOTT: I support the second reading of the Bill. The area of appropriations and spending to which I want to direct my attention tonight concerns drug policy. The Democrats have advocated for a long time, in fact forever, that the drug problem must be seen as an issue of health and social policy and not as something which the law should seek to fix. I note with some concern an increasing emphasis on drug courts at this stage. It is not that I am opposed to the concept of a drug court but I am a little concerned about what model of drug courts we might decide to adopt. Will we adopt drug courts along the American line, where a person in possession of trivial amounts of cannabis ends up in a drug court and heading for gaol, or does the State Government have something else in mind?

I think there is a real danger that the drug courts will not solve any of the problems. Members only have to look at the incarceration rate in the United States which is running at a level probably at least 10 times as high as that in Australia.

The Hon. T.G. Cameron: Highest in the Western world.

The Hon. M.J. ELLIOTT: Yes. They are putting a very large number of people into prison for what would have to be deemed as trivial drug offences. If they do not have a drug problem when they go in they will almost certainly have one by the time they come out, and they will have an education in an awful lot of other things. When I say 'education', I mean in terms of experiences that really no-one should ever suffer in a prison, as well as a whole lot of other skills in the illegal area that they did not have when they went in.

I attended the conference which was sponsored by the police in South Australia about two months ago. I must say that it was a valuable conference with a very wide range of speakers. The head of the drug court from New South Wales spoke, and I must say that she was very refreshing because, while she had two representatives of the drug courts in America sitting next to her, she was very polite in suggesting that perhaps they were not the way to go, and that indeed they might have overstated their case somewhat in terms of what they had achieved. Effectively, she said not to expect too much of drug courts.

Before the Government establishes drug courts, it should ask: 'For what purpose? For what end? What do we hope to achieve?' I wonder whether all the people who have been promoting drug courts in South Australia are even aware that we already have a pre court diversionary process (drug aid panels) operating within South Australia and, I am told, operating quite effectively, except for two limitations.

First, they do not have sufficient resources to see people who would be diverted to them. In fact, there is an enormous waiting list of some months before the people can appear before the panel. If they do appear before the panel and it wants to send them to a treatment program, the next thing one discovers is that the treatment programs in South Australia are full and not capable of taking any more people. How a drug court would assist in this process is beyond me.

I put it to this Chamber that we should maintain the pre court diversionary process and that people who are caught in possession of drugs—and I am talking about other than cannabis—should not be going to drug courts for possession offences. If we are to do anything in a legal or quasi legal system, I would argue that we should be doing it through the drug aid assessment panels, which need to be beefed up. The Government might ask from where it will get the money; but from where will it get the money for the drug courts? I assure members that the operation of drug courts is a far more expensive operation than the drug aid assessment panels. For a start, you have lawyers on both sides—lawyers representing the Government and lawyers representing the person appearing before the court—plus the judge and so on. It is an extremely expensive process.

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: That is right. Sending people with a drug problem to prison is clearly a stupid thing to do: I agree absolutely. That is why, again, I ask: why would you send a person to a drug court for matters of possession? I think it is quite a different issue if a person has a drug problem and is then committing other offences: I think it makes a great deal of sense perhaps to send them to a drug court first, and the drug court would play a role in tackling the addiction. It does not mean that the person will be forgiven whatever other crime they have committed but it does mean that, if there is a primary problem, it is not ignored and the drug problem itself is addressed. Then the court makes a decision about what it does about the particular offence that brought the person into the system to begin with. That is a sensible use of drug courts.

I am not suggesting that a person with a drug problem who is committing crime should avoid appearing before a court. However, it is sensible to have a specialist court working with a person with an identified drug problem who is then committing other crimes. I repeat, if people are simply in possession of drugs, they should not be finding themselves in a drug court but should be before a diversionary panel.

I made mention of treatment programs. We have a problem in South Australia. The major treatment program that is available is a methadone program, and that program is full. A person may have a problem and may ask to be put into the program, but they will wait for months to get in. So, a person might say, 'I am ready now', but the people running the program will say, 'Sorry, we are not ready for you.' That is quite outrageous.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: By way of interjection, the Hon. Terry Cameron said that they are not the answer. I think they are part of a much bigger answer. There is no single answer. But for people who are prepared to go into a methadone program to be told, 'There is a waiting list; come back in a few months', that is clearly not an answer either.

The Hon. T. Crothers: What is the cost of drug addiction to the total community? The cost of methadone pales into insignificance beside it.

The Hon. M.J. ELLIOTT: It is probably a reasonable guess to say that it is costing the community at least about $100 per addict per day. It may, indeed, be more.

The Hon. T. Crothers: What about the cost of people who can beat their habit, who break in, pilfer—all sorts of things?

The Hon. M.J. ELLIOTT: I will get to that. There is also the possibility of providing methadone through GPs. In fact, there are a few GPs—but I am told very few—who are also privately administering methadone treatment. Again, there is a need for more resources in that area. But there is not a single treatment: in fact, there is a whole range of treatments that are potentially beneficial.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: Naltrexone became the story of the day for a while. A few women's magazines went berserk about that: it was to be the magic cure for everything. I think it is fair to say that the experts consider that naltrexone will be the answer for some people, just as methadone will be the answer for some others. Other treatments are being used overseas. Buprenorphine and LAAM (long-acting methadone) are also possibilities and, of course, in this place I have raised the question of heroin prescription, which is now being used in Switzerland and the Netherlands. Heroin prescription is no magic answer. The Swiss themselves say that heroin prescription will work for probably only about 5 per cent of the addicted population. So, it is an answer for one subset.

We desperately need the Government to commit (and I think it needs to be done in conjunction with other States) to a wide range of clinical trials which look at LAAM, buprenorphine, heroin prescription and naltrexone—and, in fact, sometimes we may even look at sequences. I know of one doctor who is currently working with a treatment sequence where he uses buprenorphine to start with as a substitute, if you like, for heroin and then moves people to naltrexone, and apparently he is getting very good results. But this is one GP, essentially, working in isolation. What the doctors of this State need is the scientific basis, the clinical trials, that can tell them how to handle the people who present to them. Simply, the science in this area is not good enough.

The way a doctor works is that a person presents with a problem and a set of symptoms. The doctor takes their life history and says, 'On the basis of what I now know about you, this is the most suitable treatment.' Sometimes the treatment fails, so the doctor moves to another treatment and sometimes to a third. Drug treatment is exactly the same. We have to expect that people will fail, and that is very much the history with heroin in that people fail treatments repeatedly. They might keep using the same treatment, which might eventually work. In some cases, it might be a matter of moving to a different treatment. But if we have the science—

The Hon. T. Crothers: It is not merely actual physical illness, but mental illness too, and that is even more difficult to treat.

The Hon. M.J. ELLIOTT: Absolutely; it is a very difficult thing to treat. We have to help the doctors by enabling a wide range of clinical trials to be carried out and then to provide the funding that is necessary for the programs to operate—programs which need to be directed not just at the users themselves but also to the users' families. One has to realise that a drug problem is a problem not just for the user: it is a significant problem for the family as well. They do not know what to do; they themselves need support before they are able to provide support to the user.

In the context of the budgetary debate I am talking about spending money, but I remind people of the Swiss experience. The Swiss experience, where heroin was provided on prescription and extensive health and social supports were provided to users, was that it cost about $50 per client per day to run the program. However, they also found that they were saving a further $50 per client per day. In fact, the net impact for Switzerland was that the country saved money by spending money, because of the drop in crime and the drop in moneys spent on police, in the courts and in prisons.

As my parents used to say, sometimes you have to spend a penny to save a pound. It is not unlike the general debate in health, where we are so busy struggling to find dollars to spend in health that we do not spend money on primary health care, yet if we spent the money on primary health care the whole health budget would be much easier to administer. I would say to the Government very strongly that, if we want to get on top of the drug problem, which I know is an enormous problem, we will need to spend money. When the Government asks where the money will come from, I say that eventually the money will be saved from what we would have spent on police, the courts and prisons and within the health system more generally. In fact, we cannot afford not to spend the money there. With those words, I support the second reading of the Bill.

The Hon. P. HOLLOWAY: We are now approaching the end of the six years since the election of the Liberal Government. It is remarkable how little has been achieved in economic terms in that time. Most of us would remember the rhetoric of the 1997 budget, which was just before the election. I think we were told that we were then in the home straight; and the then Treasurer, Stephen Baker, and Premier Olsen told us how all the problems of the State had been fixed, that we were in healthy shape and the budget was sound. Of course, we all know what happened: as soon as the election was over we were told that in fact the budget was not in such a great condition and we had to embark on the asset sale program, particularly of ETSA, in spite of the promises of the Government before the election that it had put the budget back in some order.

I think this phase of the Government's operation—the six years we have had since the election of the Liberal Government—will be remembered as the L.J. Hooker phase of economic management within this State. This Government has focused almost completely on the sale of assets and the cutting of the Public Service as its main budgetary measures.

When one thinks about it and asks the questions, 'What has happened in the past six years in terms of wealth creation in this State? What monuments have been left? What has this Government achieved in six years that will add to the long term wealth of this State?', it is rather ironic that so many of the assets this State Government is now selling were built up or even created during the course of the previous Labor Government. Unfortunately, very little will be left or not sold by this Government by the next election. The 1999 budget is built on a nominal surplus, which includes the one-off transfer of funds from the old South Australian Asset Management Corporation.

How ironic that the $200 million that is to be recovered from the old State Bank is the basis on which our budget surplus will be delivered next year. A figure of $200 million from that institution is to be carried over and that is the only basis on which the budget papers show the nominal surplus for 1999. Of course, that surplus evaporated the day after the budget when the ETSA lease legislation was passed, because at that stage the Government removed the rate increase it intended to impose on electricity bills and, of course, the budget we now know will be in substantial deficit for 1999-2000. That budget, which was based on a one-off transfer from funds recovered from the State Bank, was

already non-operative within days of the budget being brought down.

It is also worth noting that the surpluses this Government was claiming excludes the one-off cost of consultants. Now that the lease of ETSA is to proceed not only will the revenue the Government will receive from electricity fees reduce by $100 million but there will also be a multimillion dollar increase in the amount that will be paid to consultants. The Treasurer released a press statement in which he indicated exactly what some of those details would be.

It was indicated that the total cost of consultants for last year was $34.6 million. In his press statement dated 23 June, the Treasurer points out that it should be noted that an error in one of the budget papers incorrectly lists estimated consultancy costs at $30 million rather than $34.6 million. That is a fairly substantial error when the Government is talking about the virtues of having nominal surpluses of $1 million or $2 million a year, yet apparently it cannot even get right its consultancy costs in the budget because it has underestimated them by $4.6 million, which is a substantial error in those amounts. How such mistakes can be made deserves some explanation from the Government.

While the Government has dropped the $100 million a year tax increase on ETSA charges as a result of the lease, it has, however, increased the domestic tariffs on electricity by 1.7 per cent and it has increased the supply charge on electricity by an even greater percentage. The Treasurer should supply an answer as to exactly how much extra revenue this increase in electricity tariffs will earn for the budget this year. Also, we discover from the Treasurer's press release that funding for consultants was met internally, that is, there were reduced dividends. Great play was made by the Treasurer through the ETSA debate that future dividends which would be provided from electricity assets would be reduced.

We can see what a self-fulfilling prophecy that is when all of these consultancy costs, amounting to $22 million, were paid by the electricity businesses for the disaggregation program. Is it any wonder, then, that the dividends that our electricity assets have paid us in the past year have dropped? Of course they have dropped if they are funding these consultants. We should question the probity of that budget presentation. If there are consultancy costs that need to be met as part of the sale process, surely those costs should be on-budget costs and not be taken out of dividends paid by those entities, thereby reducing the dividends that those electricity assets have paid. Is it any wonder that the Government could claim that the future dividends from electricity assets were going to decline when the Government has met such substantial consultancy costs paid for by those businesses?

In its budget papers in relation to the electricity assets, it is interesting to note that the Government had budgeted for the loss of money from the generation assets. In the budget papers the Government refers to one day when several million dollars was paid for electricity as a result of the very high pool prices at that time due to a failure of the inter-connector. The point that needs to be made in relation to that is that a loss to ETSA Distribution is a gain to Optima or Flinders Power. In other words, if there is a high pool price, certainly the distributor has to pay the extra amount, but it pays that additional amount to the Optima Energy or Flinders Power generators which provide the power. So, it is in effect an internal transfer of funds, and the Government has used those figures in this budget quite dishonestly. I suppose that is all history now, as ETSA will be leased and I guess this debate will be consigned to history. However, it is at least worth pointing out for the record in this budget debate that the use of figures by this Government has been rather questionable, to say the least.

In relation to the nominal budget surpluses that this Government has projected into the future, it seems that it is rather like those high school science experiments that we used to conduct. You would work out what the answer was at the start of the experiment and, to make sure you got the right results, you would fit the data to make sure that you got the answer. So, if it was Hooke's law and you wanted to get a straight line, you would make sure that if all the answers did not fit on that straight line you would check them again to make sure that they fitted in with the answer that you expected.

By way of an analogy, that is how this Government approaches its budget surplus position. It starts off with the answer, which is a nominal surplus of $1 million or $2 million, and then works backwards. To get the right answer, it has to get an additional figure. So, what does it do? It balances it with superannuation. That concept has been used in a number of the budgets that have been presented by the Liberal Government.

In this budget the Government increases from 30 to 40 years the time for repayment of the superannuation debt. That is one way that one can get the right answer—the nominal surplus you want.

The other fudge factor that is used is the capital works budget. You start off by budgeting for, in this budget, about $1.2 billion, but you never spend anything like that. In the last budget it was less than $1 billion. So, what you do is budget for $200 million or $300 million more than you know you will spend, and you can balance it up. By reducing that expenditure, you can achieve the budget outcome that you want. The fact is on every single budget produced by this Government, the capital budget has been substantially underspent by some hundreds of millions of dollars. Does anyone seriously believe that this budget will be any different?

The other way the Government gets the result it wants is from one-off items. In the previous financial year, 1998-99, the Government had budgeted for a nominal surplus. It turned out that we had a $65 million deficit, but the money that would have brought us into surplus in the past year was in fact held over for 12 months into this year's budget. So, you start off at the commencement of the year saying, yes, we will get a surplus, but then towards the end of the year, you think that everyone has forgotten about it, and it is more important to budget for a surplus next year, so you hold off these one-off items and put it over into next year. That way you are able to keep budgeting for a surplus in the following year.

So, what has happened in this budget is that $65 million from last year has been held over. The budget was in deficit last year. This year we had the nominal planned surplus which as I have indicated is already obsolete. That is the sort of budgetary accounting that this Government has been using to produce its surpluses. I really think that, after six years of this practice, the public has every right to be highly cynical about the whole process.

The other point I wanted to make in relation to this Government's fiscal policies over the past six years is that by now approximately 20 000 jobs have been taken from the public sector. If one were to take a figure of, say, $50 000 each as the reduction in ongoing costs that should arise from

those 20 000 job cuts, that amounts to $1 billion a year. Even if one were to take half that figure, and if the average saving from the jobs was only $25 000, which is clearly a much too conservative figure, it would still be a $500 million per year saving.

Over the six years of this Government, as well as what should be a $500 million to $1 billion saving in wages as a result of those job cuts, there has been an increase of approximately $1 billion in taxation under the Olsen Government. With all this extra money and these extra jobs, the public is starting to ask, 'Where is it all going?', particularly when they see that there have been continual cuts to our services, particularly health and education. In this last budget, for example, the health budget has been cut by $46 million, and my colleague the Hon. Carmel Zollo talked about this in her speech earlier this evening. Some $46 million has been cut out of health and approximately 14 000 procedures will be cut as a result of that reduction in the State budget.

It is worth pointing out that, as I understand it, we are in fact the only State Government in this country that has cut its health budget this year. Also, the education budget has been cut by $39 million this year. So, here we have—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The Hon. Angus Redford will have his opportunity later. We have had a $1 billion increase in taxation over the last six years, and we have had public servant cuts amounting to approximately $500 million to $1 billion. In spite of that, we are the only State that is cutting our health and education budgets. Why is it that we are cutting our essential services when we have had such big tax increases and such huge cuts in the Public Service that should lead to a multimillion, even $1 billion, saving in the budget? The answer is that this Government has its priorities all wrong, and that is increasingly coming across to the people of this State.

One had only to listen to the talkback radio stations recently when the health situation was front-page news to believe that to be the case. The public is asking why the Government is spending money on a number of other areas when it cannot get its basics such as health right. Why are people being pushed out of our hospitals when the Government is spending money elsewhere, and some of the examples that I heard were the National Wine Centre at a cost of $37 million and Hindmarsh Stadium. These are the questions that the Government has to answer.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The Hon. Angus Redford can interject all he likes, but he has now been in Government for six years. He can revisit the past as often as he likes, but the public is asking these questions. With 20 000 public servants taken out of the Public Service, saving $500 million to $1 billion a year, and with a $1 billion increase in taxes with a huge whack this year for the emergency services levy, why are we still cutting in absolute terms, not just in real terms, our Health and Education budgets—the only State in the country to be doing it? Where are our priorities? Why are our priorities so wrong? That is the question that the Olsen Government has to answer. The Minister for Health has been blaming the Commonwealth Government, not entirely without justification, for the cuts in the health system. The Health Minister says that it is not his fault, that he is not going to take responsibility for it on his own. He is saying that he has done his best but Cabinet has not supported him.

I also wish to say something about the budget presentation because I believe that it is an important issue, and I will refer to that in the context of the Primary Industries budget. Last year for the first time the budget was presented in accrual accounting terms. What we had was described as output budgeting.

The Hon. A.J. Redford: We didn't have any precedent from your mob on that issue.

The Hon. P. HOLLOWAY: No, and I am glad we did not. The jargon that was used last year referred to key resource areas (KRAs). Within the Primary Industries budget, like all the other budgets, key resource areas were presented and we were supposed to judge by them. This year that has all been scrapped. Key resource areas are no longer described and the budget is set out differently into output areas, so the jargon has changed completely. Unfortunately, the information has reduced.

I looked back at the last budget that was presented in the traditional format that had been used in this State for many years, namely, the 1997-98 budget. That was the last year in which Program Estimates were provided. In the Department of Primary Industries, the budget was divided into nine programs and 25 sub-programs. For each of those 25 sub-programs there was detail, there was the financial budget, there was information about the staff, details about what the objectives under each program were for the forthcoming budgetary year and the achievements in previous years. Also in that 1997-98 budget, the SARDI budget was divided into five programs and 24 sub-programs. The Mines and Energy budget was divided into five programs and nine sub-programs. The Office of Energy Policy budget was divided into four sub-programs.

If we were to make adjustments for the responsibilities in the current PIRSA, there would be 17 programs and 50 sub-programs in the budget for which there was information. What did we get this year? By comparison the Outputs Operating Statement of the 1999-2000 budget divides the department's activities into just four output classes and a total of 13 subclasses. From 17 programs and 50 sub-programs, we now have four output classes and a total of 13 subclasses. That would not be so bad if we had information on them, but that is not the case.

For example, for one of these 13 subclasses, Output 3.1 Policy Advice and Support Services, a table is included, but it is completely blank except for one figure down the bottom that states that the total budget expense for this output will be $5.172 million for this year. The headings include performance indicators, quantity, quality, timeliness and cost, but it is completely blank. There is not a single detail in it. If one looks through the 13 headings in the budget, one sees that it is fairly similar. Few of the squares in the budget format are filled out. Not only do we have far fewer divisions—from 50 back to 13—into which the budget has been divided, but on some of them we have absolutely no information at all. As to those on which we have information, it is absolutely minimal. I mentioned earlier that the SARDI budget two years ago was divided into five programs and 24 subprograms. If members read the PIRSA budget this year, they would hardly know that SARDI exists. In the entire portfolio statement for PIRSA I could find only two references in fine print to SARDI. You would not have even known that institution existed, yet two years ago substantial detail was provided on that budget.

Is it any wonder that during the Estimates process the Opposition asks substantial questions? Is it any wonder that we would try to seek the information which we were provided with in budgets gone by but with which we have not been

provided this year? There is an absolute dearth of information in this budget and the examples I have just given illustrate that. The presentation in this budget is an utter disgrace, and the lack of information is a disgrace. What did our morning newspaper suggest when the Opposition put a series of questions in relation to the budget to try to dig out some information so that we could be in the same situation as we have been in years gone by? What did the *Advertiser* say? This is what our protector of democracy says. An article headed 'The running costs of democracy' states:

> The Opposition in State Parliament wants answers to fully 1 180 inquiries. What diligence. What a relentless pursuit of truth.

It says that very sarcastically and continues:

> The Government says this is all nonsense. Answering these questions would cost $750 000, the kind of money usually reserved for parliamentary superannuation funding and maintaining the ministerial car pool. We smell a very dead rat. We have no doubt the Opposition is being mischievous.

That editorial is a very accurate reflection on the quality of our morning newspaper. Surely, it must be the only newspaper in this world which is arguing for less information. The *Advertiser* might well be satisfied with a changed budget format that reduces in one portfolio area the number of information classes from 50 to 13. It might be happy with a budget whereby some pages are completely blank. The *Advertiser* might be happy about that, but how dare it criticise the Opposition when we ask questions. As I said, it must surely be the only newspaper in this world which attacks an Opposition for asking questions and seeking information.

One thing it does is let me understand how the people of the Soviet Union felt when they had newspapers like *Pravda* and *Isvestia*—one newspaper that gives the Party line all the time. I can understand the total cynicism that the people of the Soviet Union developed when they were given such one sided presentation all the time. Certainly, it illustrates that, but I believe it is disgraceful that the *Advertiser* should act in such a way.

As I say, it might well be happy that this Government has been able to change its budget presentation in such a way that there is almost zero information being provided about the budget. All I can say is that, over time, the budget detail will get out and these details will gradually drip through. The Government will not be able to keep them silent for ever. In view of some of the interjections we have heard, another example that those members might like to contemplate is that, within the health budget, for years and years the budget for each hospital and health unit within the State has been provided. That is no longer the case. There is now just one line in the budget for the entire hospital system in this State.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The Hon. Angus Redford and the Adelaide *Advertiser* might be happy with that level of disclosure. They might think that it is okay for a Government to provide a one page summary in its budget for an entire health system. In the Portfolio Statements there is one page of information for $1.25 billion of expenditure on our hospitals. Members opposite and the *Advertiser* might be happy with that, but the people of this State are entitled to more information.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes; only one page of information in respect of $1.25 billion of expenditure on our hospital system is provided in the Portfolio Statements. Surely the public of this State is entitled to a greater breakdown of that expenditure. That is why—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Unfortunately, I was about to move on; perhaps I should have another go at it. It is unfortunate that so little information is provided in respect of the health budget. Is that good enough?

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: If we in the Opposition are criticised for asking questions about the budget, we are entitled to defend ourselves by revealing just how little information is provided. When a health budget has no breakdown at all for any of our individual health units, how are the Opposition and the public of this State expected to get that information? How is the public supposed to know what is going on within the system?

The Hon. T.G. Cameron: Put some questions on notice.

The Hon. P. HOLLOWAY: In fact, we put questions on notice through the Estimates, and we were criticised for it. That is exactly the point: we have been criticised for doing exactly that.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes, there have been a lot of questions about that. Let us not lose the important point: this Government's budget presentation in recent years under so-called accrual accounting—and it really has nothing to do with accrual accounting—is a complete disgrace; it is totally opaque.

In conclusion, this Government's budget presentation has been a disgrace, but we will support the Appropriation Bill, as we always do. However, in the six years since the election of this Liberal Government we could have expected a lot more. A lot of questions arise from this Government's budget. I have addressed some of those during this contribution, and I am sure my colleagues will address plenty more during this debate. One thing is for sure: the public of this State is getting tired of this Government's excuses and believes that it is about time that this Government started providing some services and getting its priorities right. If there is one area where this Government has missed the boat completely, it is in getting its spending priorities correct. With those words, I support the budget.

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

OFFSHORE MINERALS BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

> This Bill seeks to establish a legislative regime to govern mineral exploration and mining in South Australia's coastal waters and mirror Commonwealth legislation applying in adjacent Commonwealth waters.
>
> Under the Offshore Constitutional Settlement of 1979, the Commonwealth and States agreed that as far as practicable, a common offshore mining regime should apply in Commonwealth and State waters. It was agreed that State coastal waters should extend three nautical miles from Australia's territorial sea baseline and Commonwealth waters should lie beyond the three nautical mile limit. Commonwealth waters are administered under its *Offshore Minerals Act 1994*. South Australia's coastal waters will be administered under this proposed new legislation.

The administration of the minerals regime applying in Commonwealth waters adjacent to South Australia is shared between the Commonwealth and South Australian Governments. This joint administration operates through two institutions, the Joint Authority and Designated Authority.

The Joint Authority consists of the Commonwealth Minister for resources and energy and the corresponding State minister, and administers all offshore minerals activity in Commonwealth waters adjacent to South Australia. The Joint Authority is responsible for major decisions relating to titles, such as grants, refusals and the like, and in the event of a disagreement, the views of the Commonwealth Minister prevail.

The State minister is the Designated Authority, and is also responsible for the normal day-to-day administration of the Commonwealth legislation.

Under the auspices of the Australian and New Zealand minerals energy council, ANZMEC, a 'model' bill to apply in State coastal waters was developed by the Western Australian Government in consultation with Parliamentary Counsels in other States, including South Australia. The 'model' bill has provided the basis for the development of South Australia's *Offshore Minerals Bill 1999*.

In accordance with the Offshore Constitutional Settlement, the Bill closely mirrors the Commonwealth's *Offshore Minerals Act 1994*. This will ensure that exploration and mining proposals in Commonwealth and State waters receive consistent treatment, which is particularly important if projects straddle both jurisdictions.

The Bill applies to South Australia's coastal waters which are defined to be those waters extending three nautical miles seaward from the baseline determined under the *Seas and Submerged Lands Act 1973* of the Commonwealth. The baseline encloses Spencer Gulf, Gulf St. Vincent, Investigator Strait and Backstairs Passage by a line from the mainland to the western end of Kangaroo Island, along the south coast of Kangaroo Island and then from the Eastern end of the island to the mainland. Mining in the gulfs and in Investigator Strait and Backstairs passage will be regulated under the *Mining Act 1971*.

The Bill provides a legislative framework for the administration of various types of mining licences in South Australian coastal waters and has regulation-making power to detail relevant royalty, and environmental management regimes. In the interim, the respective onshore regulatory regimes will continue to apply in State coastal waters. It is expected that the environmental management regimes to apply in State coastal waters will be consistent with the arrangements applying onshore.

The Bill also details State functions in Commonwealth waters under Part 5.1 of the Commonwealth's *Offshore Minerals Act 1994.* In effect, relevant South Australian laws can be applied to Commonwealth waters when a corresponding Commonwealth law does not exist. For example, South Australia's environmental management and safety and health regimes can be applied to Commonwealth waters in the absence of corresponding Commonwealth regimes.

The impending environmental protection review of South Australia's *'Mining Act 1971'* will reshape the environmental management regime for onshore mining activities and also provide the basis for the establishment of a complementary environmental management regime in South Australian coastal and adjacent Commonwealth waters.

This greater consistency of legislation between jurisdictions will create a more efficient and effective regime for the administration of exploration and mining in South Australia's off shore waters.

While there has been some interest in offshore minerals occurrence in South Australian waters in recent years, there are no applications or permits currently in force.

This Bill complements South Australia's offshore petroleum legislative regime which was established 16 years ago. Since the establishment of this complementary Commonwealth-State petroleum regime, there has been significant petroleum exploration activity in South Australia's offshore waters which has proven to be a good test for the legislation.

Passage of this bill will fulfil South Australia's obligations under the Offshore Constitutional Settlement of 1979.

Explanation of Clauses

Clause 1

Clause 2

These clauses are formal.

Clause 3—Outlines the main principles of the Offshore Constitutional Settlement by which the States share in the administration of the Commonwealth Act and under which a common mining code will be maintained in the offshore area. The clause also details those Acts which either gave rise to, or flow from the Offshore Constitutional Settlement.

Some sections of the Commonwealth Act contain provisions which are not relevant to this Bill. Throughout the Bill some clause numbers are not used to maintain uniformity with the Commonwealth Act.

Clause 4—Many provisions of this Bill are accompanied by explanatory notes. These notes may explain further the purpose of the particular provision or they may draw attention to another provision which may be relevant to the substance of the original provision. This clause provides that the notes which may be included in a clause may assist the understanding but do not form part of that clause.

Clause 5—provides the meaning of terms used in the Bill.

Clause 6—The intention here is to identify the shareholders in a licence and their percentage holding. It ensures that where a licence has a number of holders it does not automatically mean that all have equal shares, but rather only those percentages that are specified in the Register.

Clause 7—This explains that a transfer of a licence or share in a licence has occurred when all or any of the percentages of the interest in a licence changes.

Clause 8—This provision makes it clear that if a holder of an exploration licence applies for and is granted a retention licence or a mining licence, these latter licences over the same area are defined as successor licences to the exploration licence. It also allows for a mining licence to succeed a retention licence which previously succeeded an exploration licence. The intention is that over the life of an offshore minerals project, the previous rights of the project owner are in certain circumstances continued in the successor licences.

Clause 9—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 10—From time to time it will be necessary to determine various positions upon the Continental Shelf, for example the position of a particular boundary of a title area. This clause explains how the position on the Earth's surface is calculated and ensures that all determinations of points will be made by reference to a single geodetic station, namely the Johnston Geodetic Station in the Northern Territory. This point was established through the co-operative effort of the survey authorities of the Commonwealth and the States.

Clause 11—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 12—This ensures that where an instrument issued under this Act is varied in any way, the variation is carried out according to the same procedures and under the same conditions by which the original instrument was issued. The intention is to ensure that there is consistency in the administration of this Act.

Clauses 13 to 15—(Numbers not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 16—"Coastal waters" of the State is defined as the first 3 nautical miles of the territorial sea from the baseline—this is the area subject to this Bill. The "baseline" is described as effectively being the lowest astronomical tide along the coast, but varies where bays and other indentations occur. This clause explains the effect on a licence issued under this Bill where there is a change in the baseline. If the baseline moves landward and causes a licence to no longer be within coastal waters, the Bill will still apply to the licence as if it were still within coastal waters. If the baseline moves seaward and causes a licence issued under the Commonwealth Act to move within coastal waters (covered by this Bill), that licence is not affected by this Bill. Once a licence (or any successor licence by the same holder) affected by a change in the baseline is no longer in force, the new position of the baseline applies to subsequent licence applications.

Clause 17—This clause provides that for the purposes of this Bill the offshore area is divided into blocks bounded by one minute of latitude and one minute of longitude.

Clause 18—This provision allows the Minister to withdraw a block entirely from the operation of this Bill, provided the block is not the subject of an existing licence or an application for a licence. The intention is to allow blocks to be reserved for conservation purposes, environmental reasons or any other reason.

Clause 19—This clause defines a standard block as one that is not reserved and is available for any one to apply for either an exploration permit or mining lease.

Clause 20—This clause defines a tender block as a reserved block which is made available for an exploration licence or a mining licence by way of a public invitation to apply for the licence.

Clause 21—This clause defines a discrete area as a group of blocks where all the blocks join each other at least on one side.

Clause 22—This clause adopts an all embracing descriptive definition of minerals to include all naturally occurring substances or any mixture of them.

Clause 23—This clause adopts a broad definition of exploration to include any operation directly related to exploration. However, underground exploration from land in accordance with the *Mining Act 1971* is not included.

Clause 24—This clause adopts a broad definition of recovery.

Clause 25—This clause defines a licence holder as one whose name appears in the Register.

Clause 26—This clause defines "associates" in order to make a distinction between them and the licence holder. Associates may do all the work necessary for the exploration and mining of minerals under agreements with licence holders or other associates. Associates may be contractors, sub-contractors, agents or employees.

Clause 27—This clause ensures that any information provided to the Minister by the licence holder remains confidential so long as it relates to only those blocks covered by the licence and for so long as that licence or a successor licence remains in force.

Clause 28—This ensures that any material recovered as a sample which is provided by the licence holder to the Minister remains confidential so long as it relates to only those blocks covered by the licence and for so long as that licence or a successor licence remains in force.

Clause 29—Where "Commonwealth-State offshore area" is referred to in this Part, it has the same meaning as in the Commonwealth Act. The Commonwealth-State offshore area is the offshore area seaward of the 3 nautical mile limit.

Clause 30—This clause provides for the Minister to perform duties as a member of the Joint Authority, or as the Designated Authority in Commonwealth waters under the Commonwealth Act.

Clause 31—Similarly, this clause provides for a public sector employee with delegated authority under the Commonwealth Act to perform those duties under that Act

Clauses 32 to 34—(Numbers not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 35—This clause provides that the Bill does not apply to petroleum.

Clause 36—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 37—This clause makes this Bill applicable to all natural persons whether or not they are Australian citizens or residents of South Australia, and to all corporations whether or not they are incorporated or carrying out business in South Australia.

Clause 38—This clause provides for the basic control over offshore minerals activities. It provides that all offshore mineral activity is prohibited unless authorised according to the provisions of this Bill.

Clause 39—This outlines the five licences and consents which may be granted, their respective purposes and the sequence in which they may be used.

Clause 40—This outlines the steps that must be taken before a licence becomes fully effective.

Clause 41—This clause allows the Minister to determine the form and manner in which an application for a licence or the renewal of a licence is to be made.

Clause 42—This is one of the fundamental clauses in the legislation. It provides that minerals authorised by and recovered under a licence (but not a works licence) are the property of the licence holder.

Clause 43—The clause makes it clear that while a licence or consent does not extinguish any native title, the native title rights in the area will be subject to the rights conferred on the holder of a licence or consent. Subject to clause 44, the subordination of native title rights during the life of a licence is consistent with the subordination of any other rights other interested parties may have in the licence area. In other words, native title rights are subordinate to the licence rights of the licence holder while the licence exists. Also, liability to pay compensation in relation to native title, lies with the licence applicant and not the Government.

Clause 44—The licence holder must respect and not interfere with the rights of other persons who may be lawfully in the area including any native title rights and interests.

Clause 45—This provides that an exploration licence may be granted for blocks that are open for exploration or blocks that have been previously reserved and which have been released for tender.

Clause 46—This outlines in clear terms what a licence holder can or cannot do under a licence. The licence authorises its holder (subject to compliance conditions and all other legal requirements) to explore the licence area for all minerals except those specifically excluded or for minerals specified in the licence. It also allows the licence holder to recover samples and carry out associated activities.

Clause 47—A licence can be cancelled for failing to comply with the conditions of the licence and for breaching a provision of this Act or Regulations or a condition attached to the transfer of a licence. No compensation is payable to the licence holder in this situation.

Clause 48—This provides that any rights conferred by an exploration licence may be suspended in the public interest. For example, an investigation may need to be conducted to establish whether or not exploration activity in the area is having an adverse impact on a newly discovered and unique ecological occurrence. It also provides the procedures the Minister must follow if the Minister decides to suspend the licence. They may be later restored and the licence holder must be informed of both events in writing.

Clause 49—This provides that compensation must be paid to a licence holder if property is acquired as a result of suspension of exploration rights.

Clause 50—This provides that a person may apply for an exploration licence to cover one or more vacant blocks providing they form one discrete area up to a maximum size of 500 blocks.

Clause 51—This provision outlines the various circumstances under which a block can be excluded from being available for an application for an exploration licence. The intention is to allow the Minister the opportunity to reserve a newly vacant block, for whatever reason. It is also designed to prevent previous licence holders of, or applicants for those blocks from immediately re-applying for them again so as to give other interested parties the opportunity to apply for them.

Clause 52—This allows a person to apply to the Minister for a determination to enable him or her to apply for an exploration licence over an area covered by an excluded block.

Clause 53—This provision allows a person to apply for and the Minister to consider an exploration licence application covering more than one discrete area. It is possible that some applications lodged around the same period may be for over-lapping areas. This provision gives the Minister the discretion to grant an exploration licence to cover up to three discrete areas, if the severance of the area is caused by a grant of a prior application.

Clause 54—This provision outlines to whom and the manner in which an application for an exploration licence is to be made, as well as the details to be included in the application.

Clause 55—This provides that an application for an exploration licence is not invalid if it includes a block which is not available. This provision allows the application to be considered in relation to those remaining blocks that are available.

Clause 56—The licence application fee is prescribed by regulations and is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of the fee is to recover the administrative costs of processing applications wherever possible.

Clause 57—Applicants must advertise the details of their application for an exploration licence in the print media and invite comments on the application which should be lodged with the Minister within 30 days.

Clause 58—The purpose of this clause is to ensure that as a general rule, all exploration licence applications will be considered on a "first come, first considered" basis. The exception to this rule will be where applications for substantially the same area have been received close together in time. On such occasions, ballots will be used to determine the priority as to which application will be considered first. The conduct of such ballots and the rules for determining what constitutes close together in time will be specified in regulations.

Clause 59—This provision allows the Minister to discuss the shape of the total area comprising a number of blocks sought by an applicant for an exploration licence. Following the discussion, the Minister, with agreement of the applicant, may change the shape of the area in the application. The purpose is to prevent an applicant from encircling or closing off small pockets so as to make it difficult or uneconomic for another applicant to explore such areas.

Clause 60—Its purpose and contents are similar to clause 57. Applicants must advertise the details of their revised application.

Clause 61—This clause empowers the Minister to request any further information about the licence application. The information in the application may be deficient in some aspects or may require further elaboration.

Clause 62—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 63—This clause enables the Minister to grant a provisional exploration licence which becomes final upon the applicant paying the prescribed rental fee and accepting other certain conditions.

Clause 64—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 65—This requires that the licence must specify the area, the terms and conditions of the licence.

Clause 66—This provision requires the successful applicant to be given the licence which contains the terms and conditions of the provisional grant and a notice of any security deposit and any fees due. The provisional licence will lapse if the applicant does not confirm that it wishes the provisional grant to be made final and if it does not pay the security and all fees associated with the licence.

Clause 67—This allows the provisional licence holder to request, within 30 days of receiving a written notice of a provisional grant of an exploration licence, an amendment to a condition of the provisional licence and the Minister may amend that condition or any other condition of the licence.

Clause 68—This allows the provisional licence holder to request within 30 days of receiving a written notice of a provisional grant of an exploration licence, an amendment of the security requirement and the Minister may amend the security requirement.

Clause 69—This provides for the payment of fees and the confirmation of grant to be deferred to allow time for any conditions or the level of security to be amended, if thought necessary.

Clause 70—This is the final formal step (subject to registration) in the grant of an exploration licence. The grant becomes final upon the applicant paying the required fees, lodging appropriate security and confirming in writing, acceptance of the grant. If the confirmation of the grant is made after any amendments to the conditions or security requirements during the payment extension period, the date of the confirmed grant remains the date of the original conditional grant. This means that when discussions are held on possible amendments to the conditions or security requirements, the "clock still ticks away" so as to provide an incentive to the provisional licence holder to conclude discussions as soon as possible.

Clause 71—This ensures that the conditions specified in the licence become legally binding on the licence holder.

Clause 72—A provisional grant of an exploration licence lapses if acceptance and payment of relevant fees and securities are not made within 30 days or, if an extension is granted, within this extended period.

Clause 73—It is intended to ensure that the potential applicants for licences over reserved blocks are made aware of the "ground rules" under which the tender process will be conducted. It requires the Minister to determine the amount of security that will be required to be lodged, the conditions of the licence and the procedures that it will adopt in allocating the licence. This provision will allow the Minister to determine whether the licence will be allocated on the basis of program bidding or cash bidding.

Clause 74—In Division 2, the initiative for making an application over a standard block lies with the applicant for a vacant area and at a time of the applicant's own choosing. Under this clause, the initiative lies with the Minister who invites applications to be lodged within a specified time frame for a reserved area which has been released for exploration by way of tender.

Clause 75—The Minister must publicly specify the criteria the applicants will need to meet and the procedures the Minister will use in selecting the successful applicant. It also limits the size of an exploration licence to 500 blocks. The intention is to ensure that the potential applicants are made aware of the conditions and procedures against which their applications will be assessed.

Clause 76—This provides that a person may apply for an exploration licence according to the public notice of invitation.

Clause 77—This is a procedural provision. It outlines to whom and the manner in which an application for an exploration licence is to be made, as well as the details to be included in the application.

Clause 78—This allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 79—This provision allows the Minister to request further information in relation to the application which may be thought necessary to assist in the consideration of the application.

Clause 80—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 81—The Minister may grant a provisional exploration licence subject to the procedures as advertised in the public tender notice being observed.

Clause 82—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 83—It requires the successful applicant to be advised in writing of the terms and conditions of the provisional grant of the exploration licence which will expire if they are not met.

Clause 84—This is the final formal step in the grant of an exploration licence. The grant becomes final (subject to registration) upon the applicant paying the required fees, lodging appropriate security and confirming in writing acceptance of the grant.

Clause 85—This ensures that the conditions specified in the licence become legally binding on the licence holder.

Clause 86—This provides that a provisional grant of an exploration licence lapses if it is not properly accepted.

Clause 87—If there is more than one application as a result of the tender process, this allows the Minister to provisionally grant an exploration licence to the next best applicant should the first chosen licence holder allow its provisional licence to lapse.

Clause 88—The term of an exploration licence is four years. The date of the provisional grant is when the licence commences and it is this date that determines the expiry date, however the licence does not come into effect until it is registered. The time difference in normal circumstances will be approximately one month, during which time the provisional licence holder can decide whether to accept the provisional grant and pay the required fees and level of security. The period could be longer if the provisional licence holder wishes to negotiate any changes to the conditions of the licence.

Clause 89—The term of a renewal is two years, and the maximum number of renewals is three. This clause, taken together with clause 88, ensures that the maximum period of an exploration licence is ten years.

Clause 90—This provision empowers the Minister to extend the term of an exploration licence by the same period as licence rights have been suspended. The intention is to ensure that the licence holder is not penalised by the suspension and is able to carry out the exploration program within the same period of time once the licence rights have been restored.

Clause 91—This provision allows an exploration licence to continue in force until the Minister either grants or refuses a renewal.

Clause 92—This provision allows an exploration licence to continue until the Minister grants or refuses a retention or mining licence applied for by way of conversion.

Clause 93—This allows an existing exploration licence to remain in force beyond its due expiry date so that any application for an extension can be considered by the Minister.

Clause 94—This covers the situation where an exploration licence holder has not been able to complete its exploration program during the maximum time allowed because of circumstances beyond the licence holder's control. In this situation, the licence holder can ask for extra time to compensate for the time lost and thus complete the original exploration program.

Clause 95—This provision makes it mandatory for the Minister to extend the licence term if the Minister is satisfied that the unforeseen circumstances did affect the exploration program. The Minister may attach conditions to the extension and there are restrictions on the term of the extension.

Clause 96—This allows a licence holder to request an extension of the term of the licence than those outlined in clause 94, that is for circumstances other than those beyond its control such as suspension of licence or exemptions from licence conditions.

Clause 97—This empowers the Minister to grant a licence extension and to impose whatever conditions the Minister thinks appropriate. This is considered necessary as the circumstances may indicate that the licence holder may need to comply with additional conditions.

Clause 98—This clause provides that the applicant is to be advised in writing of the grant or refusal of extension, and of any conditions that may be attached to it.

Clause 99—This provision allows a licence holder to voluntarily surrender some of the area covered by a licence if the remaining portion forms a discrete area. Under this clause the notification constitutes surrender.

Clause 100—This clause requires the consent of the Minister before a licence holder can surrender blocks leaving two or three discrete areas. This allows the Minister the opportunity to examine the proposed surrender so as to avoid undue fragmentation of the remaining title area and prevent the licence holder from encircling or closing off small pockets so as to make it difficult or uneconomic for another applicant to explore such areas. If the Minister does not agree, then consultations can proceed to decide on the final shape of the areas to be surrendered. In the event of agreement, the applicant is advised in writing.

Clause 101—This allows for an exploration licence holder to lodge an application to renew the licence.

Clause 102—This specifies that an application to renew an exploration licence must be made at least 30 days before the licence expires. It also allows the Minister discretion to accept a later application if the circumstances warrant it.

Clause 103—This is a procedural provision which outlines the manner in which an application for an exploration licence is to be made, as well as the details to be included in the application.

Clause 104—This clause provides that the licence area must be reduced by 50% for each renewal. If a renewal is sought for more than one discrete area, then the application must not exceed 3 discrete areas. This is to avoid undue fragmentation of the licence area. The clause also gives the Minister the discretion to reduce the mandatory reduction in the licence area by less than 50% if he or she thinks that circumstances warrant it. The flexibility provided by this clause will allow the Minister to treat special cases on their merits.

Clause 105—This provision empowers the Minister to request any further information about the renewal application which may be thought necessary to assist in the consideration of the application.

Clause 106—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 107—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 108—This provision sets out the circumstances under which the Minister must provisionally renew an exploration licence.

Clause 109—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 110—This provision sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant.

Clause 111—This allows the licence holder to request an amendment of the conditions within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 112—This allows the licence holder to request an amendment of any security requirements within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirements and confirm this to the licence holder in writing.

Clause 113—This clause provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended if thought necessary.

Clause 114—This is the final formal step in the grant of a renewal of an exploration licence. The renewal becomes final (subject to registration) upon the applicant paying the required fees, lodging appropriate security and confirming in writing the acceptance of the grant.

Clause 115—This ensures that the conditions of the licence become legally binding on the licence holder.

Clause 116—A provisional grant of a renewal of an exploration licence lapses if it is not properly accepted.

Clause 117—This clause outlines the sources of the obligations associated with an exploration licence. In addition, the clause provides that where there is more than one shareholder in an exploration licence, each shareholder will be held 100% responsible for all obligations of the licence in the event of failure by any one of them to meet their obligations.

Clause 118—Under this clause an exploration licence may be granted subject to such conditions as the Minister thinks fit.

Clause 119—Apart from the payment of a penalty or lodgement of security, this clause prevents a condition requiring the payment of money to the State.

Clause 120—This clause enables the Minister to vary any of the conditions of a licence in any of the circumstances specified.

Clause 121—This clause enables the Minister to suspend or exempt any of the conditions of a licence in any of the circumstances specified.

Clause 122—If a licence is suspended, this clause frees the licence holder from complying with the conditions for the duration of the suspension.

Clause 123—The fundamental principle contained in this provision is that exploration operations are to be carried out at a standard accepted in the industry and other provisions elsewhere in this Bill ensure that these standards will be the subject of inspections. The clause also requires the operator to maintain in good condition and repair, all structures, equipment and other property in the licence area which are used in connection with the operations. All structures, plant and equipment that are not or no longer going to be used are to be removed from the operations area.

Clause 124—This empowers the Minister to require the licence holder to maintain, and provide when required, any records or samples resulting from exploration activities. This provision is also necessary so that the Minister has the information necessary for the proper and efficient administration of the legislation.

Clause 125—This requires the licence holder to allow inspectors access to its operations and records.

Clause 126—This clause outlines the circumstances when an exploration licence expires.

Clause 127—This provision allows a licence holder to surrender the licence.

Clause 128—This clause provides that an existing exploration licence covering the same area as a newly granted retention licence automatically expires to the extent of the overlapping blocks. This is to ensure that no area is covered by more than one licence.

Clause 129—This is similar in substance and intent as the previous provision, clause 128.

Clause 130—The clause outlines the circumstances under which an exploration licence may be cancelled and ensures that the licence holder receives natural justice prior to any moves to cancellation. It gives the licence holder the opportunity to make submissions within a specified time or to take remedial action. It outlines the conditions the Minister must meet before proceeding with the cancellation.

Clause 131—This clause provides that any outstanding obligations must be discharged by the licence holder after the termination of the licence no matter what the circumstances were which gave rise to the termination. It is intended, among other things to ensure that the licence holder's environmental obligations are met.

Clause 132—This clause provides for the grant of a retention licence and the accompanying notes outline the reasons for the licence.

Clause 133—This outlines what a licence holder can or cannot do under a retention licence. It also prohibits using the licence for recovery of minerals for commercial purposes. This is to ensure that the licence holder applies for a mining licence should the licence holder wish to commence commercial operations.

Clause 134—This provides that no compensation is payable on the cancellation or non-renewal of a retention licence.

Clause 135—This provides that any rights conferred by a retention licence may be suspended if the Minister is satisfied it is in the public interest to do so. It also provides the procedures the Minister must follow if the Minister decides to suspend the licence. It may be later restored and the licence holder must be informed in writing of both events as they occur.

Clause 136—This provides that compensation must be paid to a licence holder if property is acquired as a result of suspension of rights under a retention licence.

Clause 137—This provides that a holder of an existing exploration licence may apply for a retention licence covering a group of blocks in the exploration licence area and each must form a discrete area up to a maximum of 20 blocks.

Clause 138—This is a procedural provision. It outlines the manner in which an application for a retention licence is to be made, as well as the details to be included in the application.

Clause 139—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this provision is to recover the administrative costs of processing applications wherever possible.

Clause 140—This provides that the applicant must advertise the details of the application for a retention licence in the print media and invite comments which should be lodged with the Minister within 30 days. The purpose of the provision is to improve the transparency and accountability of the administration of the Act.

Clause 141—This provision empowers the Minister to request any further information about the application. This requirement is necessary as the information in the application may be deficient in some aspects or may require further elaboration.

Clause 142—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 143—This clause gives the Minister a discretion to grant or refuse a retention licence.

Clause 144—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 145—This provision outlines the various grounds on which a retention licence may be granted.

Clause 146—This details what the licence must include and limits the term of the licence to 5 years. The licence may specify what activities are authorised by the licence.

Clause 147—This provision requires the successful applicant to be given the licence which contains the terms and conditions of the provisional grant and a notice of any security deposit and any fees due. The provisional licence will lapse if the applicant does not confirm that it wishes the provisional grant to be made final and if it does not pay the security and all fees associated with the licence.

Clause 148—This allows the provisional licence holder to request an amendment to a condition of the provisional licence within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 149—This allows the provisional licence holder to request an amendment of the security requirement within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 150—This clause provides for the payment of fees and the confirmation of the grant to be deferred to allow time for any conditions to be amended or for a new determination as to security requirements to be made.

Clause 151—This is the final formal step in the grant of a retention licence. The grant becomes final (subject to registration) upon the applicant paying the required fees, lodging appropriate security and confirming in writing the acceptance of the grant.

Clause 152—This ensures that the licence conditions become legally binding on the licence holder.

Clause 153—This provides that a provisional grant of a retention licence lapses if it is not properly accepted.

Clause 154—This provision outlines the date of commencement and the initial term of a retention licence.

Clause 155—This provision specifies the date when the renewal of a retention licence comes into force and refers the reader to clause 169 which provides that each renewal may not exceed 5 years.

Clause 156—This provides that where an application for renewal has been made, the initial retention licence continues in force even though it has expired. This will allow licence related activities to continue until an application for a renewal is approved or refused by the Minister or not accepted by the applicant.

Clause 157—This allows a retention licence to continue until the Minister grants or refuses a mining licence.

Clause 158—This allows the holder of a retention licence to voluntarily surrender some of the area covered by a licence if the remaining portion forms a discrete area.

Clause 159—This clause allows for an application to be made to renew a retention licence.

Clause 160—This specifies that an application to renew a retention licence must be made at least six months before the licence expires. It also allows the Minister discretion to accept a later application if the circumstances warrant it. The intention of the provision is to encourage the licence holder to make an application well before the expiry date of the initial licence and not wait until it is due to expire.

Clause 161—This is a procedural provision. It outlines the manner in which an application for a retention licence is to be made, as well as the details to be included in the application.

Clause 162—This clause empowers the Minister to request any further information about the renewal application.

Clause 163—The provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 164—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 165—This provision states that the Minister can provisionally renew or refuse to renew a retention licence.

Clause 166—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 167—Empowers the Minister to take into account the commercial viability of mining activities in the licence area and the applicant's past record in complying with the various legal, operational and administrative requirements of the offshore minerals mining legislation.

Clause 168—This specifies the procedures the Minister must follow if the Minister proposes to refuse an application for a renewal of a retention licence. The intention is to ensure that the applicant is not denied natural justice and is given the opportunity to restate the applicant's case for a renewal.

Clause 169—This sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant and specifies that the term of a renewal is not to be more than 5 years.

Clause 170—This allows the provisional licence holder to request an amendment of the conditions within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 171—This allows the provisional licence holder to request an amendment of the security requirement within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 172—This provides for the payment of fees to be deferred to allow time for any conditions or security requirement to be amended, if thought necessary.

Clause 173—This is the final formal step in the grant of a renewal of a retention licence. The renewal becomes final (subject to registration) upon the applicant paying the required fees, lodging appropriate security and confirming in writing acceptance of the grant.

Clause 174—This ensures that the conditions of the licence are legally binding on the licence holder.

Clause 175—This provides that a provisional grant of a renewal of a retention licence lapses if the provisional renewal of the licence is not properly accepted under clause 173.

Clause 176—This clause outlines the sources of the obligations associated with a retention licence. In addition, this clause provides that where there is more than one shareholder in a licence, each shareholder will be held 100% responsible for all obligations of the licence in the event of failure by any one of them to meet its obligations.

Clause 177—Under this clause a retention licence may be granted subject to such conditions as the Minister thinks fit.

Clause 178—With the exception of payment of a penalty or lodgement of securities, this clause prevents the possibility that a tax may be imposed by way of a condition.

Clause 179—This clause enables the Minister to vary any of the conditions of the licence in any of the circumstances specified.

Clause 180—This enables the Minister to suspend or exempt any of the conditions of the licence in any of the circumstances specified.

Clause 181—If a licence is suspended, this clause frees the licence holder from complying with the licence conditions for the duration of the suspension.

Clause 182—This imposes an obligation on the licence holder to notify changes in the circumstances which significantly affect the long term viability of activities in the licence area.

Clause 183—The fundamental principle contained in this provision is that operations are to be carried out at an acceptable industry standard and provisions elsewhere in this Bill ensure that these standards will be the subject of inspections. The clause also requires the operator to maintain in good condition and repair, all structures, equipment and other property in the licence area which are used in connection with the operations. All structures, plant and equipment that are not, or no longer going to be used, are to be removed from the operations area.

Clause 184—This empowers the Minister to require the licence holder to maintain, and provide when required, any records or samples resulting from exploration or development activities. This provision is also necessary so that the Minister has the information necessary for the proper and efficient administration of the legislation.

Clause 185—This provides that the licence holder must provide inspectors with reasonable facilities and assistance for the purpose of carrying out inspections.

Clause 186—This clause outlines the circumstances in which a licence expires.

Clause 187—This provision allows a licence holder to surrender the licence.

Clause 188—This provides that a retention licence automatically expires when a mining licence over the area is granted and registered. This is to ensure that no area is covered by more than one licence.

Clause 189—The clause outlines the circumstances under which a retention licence may be cancelled and ensures that the holder receives natural justice prior to any moves to cancellation. It outlines the conditions the Minister must meet before proceeding with the cancellation.

Clause 190—This provision allows the Minister to request the licence holder to explain why the holder should not apply for a mining licence if the Minister thinks that mining is viable. It is intended to ensure that the licence holder does not just sit on the area under the licence without making attempts to develop the area to the point where commercial operations can commence at the appropriate time.

Clause 191—This provision provides that any outstanding obligations must be discharged by the licence holder after the termination of the licence no matter what the circumstances were which gave rise to the termination. It is intended, among other things, to ensure that the licence holder's environmental obligations are honoured.

Clause 192—This clause outlines the kind of blocks in coastal waters that may be covered by a mining licence. The licence authorises its holder (subject to compliance conditions and all other legal requirements) to exploit the licence area for all minerals except those specifically excluded, or for minerals specified in the licence.

Clause 193—This outlines what a licence holder can or cannot do under a mining licence.

Clause 194—This clause provides that no compensation is payable if the Minister cancels or refuses to renew a mining licence.

Clause 195—This provides that rights conferred by a mining licence must be suspended in the public interest if it is thought necessary by the Minister. The rights may be restored later and the licence holder must be informed of both events in writing.

Clause 196—This provides that compensation must be paid to a licence holder if property is acquired as a result of suspension of mining licence rights.

Clause 197—This provides that a person may apply for a mining licence to cover any area that is vacant and not covered by an existing licence. The maximum size of an area covered by a licence is 20 blocks which must form a discrete area.

Clause 198—This provides that only the holder of either an exploration licence or a retention licence may apply for a mining licence to cover an area which is the subject of the existing titles. Each licence to cover a maximum area of 20 blocks which must form a discrete area.

Clause 199—This provision outlines the manner in which an application for a mining licence is to be made, as well as the details to be included in the application. There is also a requirement that each application must be accompanied by maps which show the general location of the area sought.

Clause 200—An application for a mining licence is not invalid if it inadvertently includes a block which is not available. It is possible that an applicant may not be aware that a block is already under title or is a reserved block. In such circumstances, the application should not be considered invalid and this provision allows the application to be considered in relation to those remaining blocks that are available.

Clause 201—This provision is similar to those elsewhere in the Bill. It allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose is to recover the administrative costs of processing applications wherever possible.

Clause 202—The applicant must advertise the fact that the applicant has lodged an application for a mining licence and invite comments. The purpose is to improve the transparency and accountability of the administration of the Act.

Clause 203—The purpose of this provision is to ensure that as a general rule all mining licence applications will be considered on a "first come, first considered" basis. The exception to this rule will be where applications for substantially the same area have been received close together in time. On such occasions, ballots will be used to determine the priority as to which application will be considered first. The conduct of such ballots and the rules for determining what constitutes close together in time will be specified in regulations.

Clause 204—This clause empowers the Minister to request any further information about the licence application. The information may be deficient in some aspects or may require further elaboration.

Clause 205—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 206—This provision empowers the Minister to grant a provisional mining licence which becomes final upon the applicant paying the prescribed rental fee and accepting other certain conditions.

Clause 207—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 208—This specifies the procedures the Minister must follow if the Minister proposes to refuse an application for a mining licence. The intention is to ensure that the applicant is not denied natural justice and is given the opportunity to restate the applicant's case for a licence.

Clause 209—This specifies the items that are to be included in the licence. It also limits the term of the licence to 21 years.

Clause 210—This provision requires the successful applicant to be notified of the terms and conditions of the provisionally granted mining licence and a notice of any security deposit.

Clause 211—This allows the provisional licence holder to request an amendment to a condition of the provisional licence within 30 days.

Clause 212—This allows the provisional licence holder to request an amendment of the security requirement within 30 days.

Clause 213—This clause provides for the payment of fees to be deferred to allow time for any conditions or security levels to be amended, if thought necessary.

Clause 214—This is the final formal step in the grant of a mining licence. The grant becomes final (subject to registration) upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant.

Clause 215—This ensures that the conditions of the licence become legally binding on the holder.

Clause 216—A provisional grant of a mining licence lapses if it is not properly accepted.

Clause 217—This provision ensures that potential applicants are made aware of the "ground rules" under which the tender process will be conducted. It requires the Minister to determine the amount of security that will be required to be lodged, the conditions of the licence and the procedures that the Minister will adopt in allocating the licence. This provision will allow the Minister to determine whether the licence will be allocated on the basis of program bidding or cash bidding.

Clause 218—Under this clause the Minister may invite applications to be lodged for a reserved area which has been released for mining.

Clause 219—The Minister must publicly specify the criteria applicants will need to meet and the procedures the Minister will use in selecting the successful applicant. It also sets the maximum size of the licence to 20 blocks. The intention is to ensure that the potential applicants are made aware of the conditions and the procedures under which their applications will be assessed.

Clause 220—This clause provides that a person may apply for a mining licence according to the public notice of invitation.

Clause 221—This is a procedural provision. It outlines the manner in which an application for a mining licence is to be made, as well as the details to be included in the application.

Clause 222—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 223—This provision allows the Minister to request further information in relation to the application.

Clause 224—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 225—This provides that the Minister may grant a provisional mining licence in accordance with the procedures advertised in the public tender.

Clause 226—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 227—This requires the successful applicant to be advised in writing of the terms and conditions of the provisional grant of the mining licence.

Clause 228—This is the final formal step in the grant of a mining licence. The grant becomes final (subject to registration) upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant.

Clause 229—This clause is similar to those covering exploration and retention licences. It is to ensure that the conditions of the licence become legally binding on the licence holder.

Clause 230—This clause provides that a provisional grant of a mining licence lapses if it is not properly accepted under clause 228.

Clause 231—If there is more than one application as a result of the tender process, this clause allows the Minister to provisionally grant the mining licence to the next best applicant should the first provisional licence holder allow its provisional licence to lapse.

Clause 232—This clause outlines the date of commencement of a mining licence as well as the expiry date.

Clause 233—This clause outlines the date of commencement of a renewal of a mining licence as well as the expiry date.

Clause 234—This clause allows the mining licence to continue in force until the Minister grants or refuses a renewal of the licence.

Clause 235—This clause allows a licence holder to voluntarily surrender some of the area covered by the licence if the remaining portion forms a discrete area.

Clause 236—This clause allows for an existing licence holder to apply for a renewal of the existing mining licence.

Clause 237—This clause specifies that an application to renew a mining licence must be made at least six months before the licence expires. It also allows the Minister the discretion to accept a later application. The intention of the provision is to encourage the licence holder to make an application as soon as possible and not wait until the licence is due to expire.

Clause 238—This provision outlines the manner in which an application to renew a mining licence is to be made, as well as the details to be included in the application.

Clause 239—This provision empowers the Minister to request any further information about the renewal application which may be thought necessary.

Clause 240—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 241—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 242—This clause provides that the Minister can provisionally renew a mining licence or refuse to renew it.

Clause 243—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 244—This clause empowers the Minister to take into account the applicants past record in complying with the various legal, operational and administrative requirements of the offshore minerals mining legislation.

Clause 245—This clause specifies the procedures which the Minister must follow if the Minister proposes to refuse an application for a renewal of a mining licence. The intention is to ensure that the applicant is not denied natural justice and is given the opportunity to restate the applicant's case for a renewal.

Clause 246—This clause sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant.

Clause 247—This allows the provisional licence holder to request an amendment of the conditions within 30 days of receiving a written notice of a renewal. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 248—This allows the provisional licence holder to request an amendment of the security requirement within 30 days of receiving a written notice of a renewal. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 249—This clause provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended, if thought necessary.

Clause 250—This is the final formal step in the grant of a renewal of a mining licence. The renewal becomes final (subject to registration) upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant.

Clause 251—This ensures that the conditions of the licence become legally binding on the licence holder.

Clause 252—This provides that a provisional grant of a renewal of a mining licence lapses if the renewal is not properly accepted.

Clause 253—This clause outlines the sources of the obligations associated with a mining licence. In addition, this clause also provides that where there is more than one shareholder in a mining licence, each shareholder will be held 100% responsible for all obligations of the licence in the event of failure by any one of them to meet licence holder obligations.

Clause 254—Under this clause, a mining licence may be granted subject to such conditions as the Minister thinks fit.

Clause 255—With the exception of the payment of penalties or lodgement of securities, this clause prevents the possibility that a tax may be imposed by way of a condition.

Clause 256—This clause enables the Minister to vary any of the conditions of a mining licence in the circumstances specified.

Clause 257—This clause enables the Minister to suspend or exempt any of the conditions of the licence in the circumstances specified.

Clause 258—This provides that if a licence is suspended, the licence holder is relieved from complying with the licence conditions for the duration of the suspension.

Clause 259—The fundamental principle contained in this provision is that operations are to be carried out at an acceptable industry standard and other provisions elsewhere in this Bill ensure that these standards will be the subject of inspections. The clause also requires the operator to maintain in good condition and repair, all structures, equipment and other property in the area which are used in connection with the operations. All structures, plant and equipment that are not, or are no longer going to be used, are to be removed from the operations area.

Clause 260—The licence holder must pay the royalty required by Part 4.4 Division 2.

Clause 261—This empowers the Minister to require the licence holder to maintain, and provide when required, any records or samples resulting from mining activities. This will ensure that the Minister has the information necessary for the proper and efficient administration of the legislation.

Clause 262—This provides that a licence holder must provide inspectors with facilities and assistance to enable them to carry out inspections.

Clause 263—This clause outlines the circumstances in which a licence expires.

Clause 264—This provision allows a licence holder to surrender the licence.

Clause 265—This clause outlines the circumstances in which a licence may be cancelled and ensures that the licence holder receives natural justice prior to any moves to cancellation. It outlines the conditions the Minister must meet before proceeding with the cancellation.

Clause 266—Under this provision, any outstanding obligations must be discharged by the licence holder after the expiry of the licence no matter what the circumstances were which gave rise to the termination. It is intended, among other things, to ensure that the licence holder's environmental obligations are met.

Clause 267—This clause provides that a works licence may be granted to carry out licence related operations on blocks which are outside the area. Works licences may be granted even over areas that are subject to a licence held by some other person.

Clause 268—This clause outlines what a works licence holder can do.

Clause 269—This clause provides that no compensation is payable if the Minister cancels or does not renew a works licence.

Clause 270—This clause provides that a person may apply for a works licence over any block.

Clause 271—This clause is a procedural provision and outlines the manner in which an application for a works licence is to be made, as well as the details to be included in the application.

Clause 272—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 273—This clause provides that the applicant must notify in writing any other holders of licences which may be affected by the application. The notification must invite any comments to the Minister within 30 days of the notice being given.

Clause 274—An applicant must advertise within 14 days of making the application, the details of its application in the print media, and any objections to the application should be lodged with the Minister within 30 days. The purpose of the provision is to improve the public accountability of the administration of the legislation.

Clause 275—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 276—The provision empowers the Minister to grant a provisional works licence which becomes final upon the applicant paying the prescribed rental fee.

Clause 277—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 278—Ensures that the licence contains all the required information necessary to ensure that the licence holder is aware of the terms, conditions and obligations pertaining to the licence. The maximum term of the licence is 5 years.

Clause 279—This provision requires the successful applicant to be given the works licence which contains the terms and conditions of the provisional grant and a notice of any security deposit. The provisional works licence will lapse if the applicant does not confirm that the applicant accepts the provisional grant and if the applicant does not pay the security and all fees associated with the licence.

Clause 280—This allows the provisional works licence holder to request an amendment to a condition of the provisional licence within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 281—This allows the provisional works licence holder to request an amendment of the security requirement within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 282—This clause provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended, if thought necessary.

Clause 283—This is the final formal step (subject to registration) in the grant of a works licence. The grant becomes final upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant.

Clause 284—Ensures that the conditions of the licence become legally binding on the licence holder.

Clause 285—This clause provides that a provisional grant of a works licence lapses if the grant is not properly accepted.

Clause 286—This clause outlines the date of commencement of a works licence as well as the expiry date.

Clause 287—This clause outlines the date of commencement of a renewal of a works licence as well as the expiry date.

Clause 288—This provision allows a works licence to continue until the Minister grants or refuses a works licence renewal.

Clause 289—This clause allows for an application be made to renew a works licence.

Clause 290—This specifies that an application to renew a works licence must be made at least 30 days before the works licence expires. It also allows the Minister discretion to accept a later application if the circumstances warrant it. The intention of the provision is to encourage the works licence holder to make an application as soon as possible and not wait until the works licence is due to expire.

Clause 291—This is a procedural provision and outlines the manner in which an application for the renewal of a works licence is to be made, as well as the details to be included in the application.

Clause 292—This provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 293—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 294—This provision empowers the Minister to provisionally renew a works licence.

Clause 295—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 296—This provision sets out the details that the Minister must provide in the written notice of provisional renewal to the applicant.

Clause 297—This clause allows the provisional licence holder to request an amendment of the conditions within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the conditions and confirm this to the licence holder in writing.

Clause 298—This clause allows the provisional licence holder to request an amendment of the security requirements within 30 days of receiving a written notice of a provisional grant. It also provides that the Minister may amend the security requirement and confirm this to the licence holder in writing.

Clause 299—This clause provides for the payment of fees to be deferred to allow time for any conditions or security requirements to be amended, if thought necessary.

Clause 300—This is the final formal step in the grant of a renewal of a works licence. The renewal becomes final (subject to registration) upon the applicant paying the required fees, lodgement of appropriate security and confirming in writing acceptance of the grant.

Clause 301—Ensures that the conditions of the licence become legally binding on the licence holder.

Clause 302—A provisional grant of a renewal of a works licence lapses if it is not properly accepted.

Clause 303—This clause outlines the sources of the obligations associated with a works licence. In addition, this clause also provides that where there is more than one shareholder in a works licence, each shareholder will be held 100% responsible for all obligations of the works licence in the event of failure by any one of them to meet their obligations.

Clause 304—Under this clause, a works licence may be granted or renewed subject to such conditions as the Minister thinks fit.

Clause 305—With the exception of the payment of penalties or lodgement of securities, this clause prevents the possibility that a tax may be imposed by way of a condition.

Clause 306—This clause enables the Minister to vary any of the conditions of the works licence in any of the circumstances specified.

Clause 307—This clause enables the Minister to suspend or exempt any of the conditions of the licence in the circumstances specified.

Clause 308—The fundamental principle contained in this provision is that operations are to be carried out at an acceptable industry standard and other provisions elsewhere in this Bill ensure that these standards will be the subject of inspections. The clause also requires the operator to maintain in good condition and repair, all structures, equipment and other property in the area of the works licence which are used in connection with the operations. All structures, plant and equipment that are not, or are no longer going to be used are to be removed from the operations area.

Clause 309—This clause empowers the Minister to require the works licence holder to maintain, and provide when required, any record as required by regulations or directions by the Minister.

Clause 310—This clause obliges the works licence holder to provide inspectors with facilities and assistance for the purpose of carrying out inspections.

Clause 311—This clause outlines the circumstances in which a works licence expires.

Clause 312—This clause allows the works licence holder to surrender the licence.

Clause 313—The clause outlines the circumstances under which a works licence may be cancelled and ensures that the works licence holder receives natural justice prior to any moves to cancellation. It outlines the conditions the Minister must meet before proceeding with the cancellation.

Clause 314—This clause provides that any outstanding obligations must be discharged by the works licence holder after the termination of the works licence no matter what the circumstances were which gave rise to the termination.

Clause 315—This clause provides for the grant of a special purpose consent for the purposes outlined. Unlike licences, the special purpose consent may be granted over areas which may be reserved or are the subject of an existing licence.

Clause 316—This outlines what a consent holder can or cannot do. This provision highlights the difference between a consent and the licences issued under this legislation. The consent is different in that it does not give the holder any exclusive rights over the area covered by the consent, nor does it give any preference when it comes to the grant of a licence for the same area.

Clause 317—This is a procedural provision and provides that any person can apply for a consent.

Clause 318—This is a procedural provision and outlines the manner in which an application for a consent is to be made, as well as the details to be included in the application.

Clause 319—The provision allows the fee to be prescribed by regulations and provides that the fee is generally not refundable except in special circumstances where it may be refunded in whole or in part. The purpose of this clause is to recover the administrative costs of processing applications wherever possible.

Clause 320—This provision obliges the applicant to obtain the agreement of licence holders to the application. It also provides that such agreement is not necessary for scientific investigation which may be covered by international agreements. As the special purpose consent does not confer exclusive rights to the consent holder, the restriction of only one title over an area does not apply.

Clause 321—This provision obliges the applicant to notify any interested works licence holders about the application and invite them to lodge any comments they may have with the Minister within 30 days.

Clause 322—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 323—This provision empowers the Minister to grant a special purpose consent.

Clause 324—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 325—This clause ensures that the special purpose consent contains all the required information that is necessary so that the consent holder will be aware of the terms, conditions and obligations pertaining to the consent.

Clause 326—When taken together with clause 325, this provision limits the period of consent to not more than 12 months.

Clause 327—Empowers the Minister to impose any conditions, including reporting and environmental conditions, on the special purpose consent if the Minister thinks it is appropriate.

Clause 328—The clause directs the Minister to set up a register of licences issued in respect of the offshore area.

Clause 329—The clause directs the Minister to create and maintain a document file.

Clause 330—This clause allows the Minister to maintain the register and document file in any form or manner the Minister decides. It allows the register to be kept in an electronic form.

Clause 331—This clause allows the Minister to correct any errors in the register. The Minister may act either on the Minister's own initiative or on an application by a person affected by the error. The clause also specifies the procedure the Minister must follow if any correction is planned or contemplated.

Clause 332—This clause is fundamental to the whole concept of registration of titles. It allows a person to inspect the register and document file on payment of the prescribed fee. It also obliges the Minister to make the register available for inspection at all convenient times.

Clause 333—This provision specifies the various particulars which are to be entered in the register.

Clause 334—This provision specifies the various particulars which are to be entered into the register when an application for a renewal is made, when provisional renewal of a licence has been accepted or when a renewal application has been refused.

Clause 335—This clause directs the Minister to register an application for an extension to an exploration licence or a refusal of an extension application.

Clause 336—This clause directs the Minister to register the fact that a licence has expired. It also places an obligation on the licence holder to give the licence to the Minister for endorsement that it has expired.

Clause 337—This specifies the various particulars which are to be entered in the register when a variation is made to a licence.

Clause 338—This clause provides for the registration of the transfer of a licence.

Clause 339—This clause provides for the registration of other dealings in a licence.

Clause 340—Under this clause, a person or persons upon whom the rights of the registered holder of a licence have devolved by operation of law, may have their name or names entered into the register in place of the original registered holder. This is dependent on the person making an application, accompanied by the prescribed fee, to the Minister.

Clause 341—This clause provides that while a caveat remains in force, the Minister shall not register a dealing in a licence unless otherwise exempted by the provisions of this clause.

Clause 342—This provides for the lodgement of a caveat by anybody claiming an interest in a licence.

Clause 343—This outlines the form of a caveat and the particulars to be specified in the caveat.

Clause 344—This clause requires the payment of a fee by a person lodging a caveat.

Clause 345—provides for registration of caveats.

Clause 346—This clause enables a caveat holder to withdraw the caveat.

Clause 347—provides for the form of withdrawal of a caveat.

Clause 348—provides for the time at which a caveat has effect and when it ceases to have effect.

Clause 349—This clause outlines the circumstances when the Minister must notify a caveat holder of dealings in the licence.

Clause 350—This clause provides that a caveat holder may consent to the registration of a dealing. The consent must be registered by the Minister.

Clause 351—This clause outlines the jurisdiction of the Supreme Court in relation to caveats. The provision includes a power for the court to deal with vexatious, successive caveats which seek to frustrate or delay actions to be undertaken by the Minister.

Clauses 352 and 352A—(Numbers not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 353—This provides that a Minister, a delegate of the Minister or a person acting under their direction, is not liable to actions or suits in respect of matters done or omitted to be done in good faith in the exercise of any powers or authority conferred by this Part.

Clause 354—This provides for an application to be made by a person to the Supreme Court if it is desired to have an omission or error in the register rectified. The Minister must rectify the register in accordance with any Court order.

Clause 355—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 356—(Number not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 357—Provides that the register, a computer record, a certified copy of, or an extract from the register are admissible as evidence in legal proceedings.

Clause 358—Provides that a certified copy of any document which is registered can be provided on the payment of a fee and it is admissible as evidence in any legal proceedings.

Clause 359—Provides that a certificate about any actions which may or may not have been done may be issued on the payment of a fee. Such a certificate will be admissible as evidence in any legal proceedings.

Clause 360—This clause provides that dealings in a licence require a written document.

Clause 361—Provides that any such dealing in a licence has no effect until the document is registered.

Clause 362—This clause provides that all transfers, or the transfer of part of a licence has no effect until approved by the Minister. This provision is required because the Minister in granting the original licence in effect approved the percentage holding in the original title. Therefore, any subsequent change in the percentage holding of the title will need approval before being registered. The intent is to prevent any person considered as being unacceptable by the Minister from gaining a part of a licence through the "backdoor" by way of a transfer of a share in a licence.

Clause 363—This a procedural provision. It outlines the manner in which an application for a transfer is to be made and that it must be accompanied by the prescribed fee.

Clause 364—This provision empowers the Minister to request the production of documents in respect to an application for a transfer in a licence.

Clause 365—This provides the Minister with the discretion to approve or reject an application for a transfer. It also outlines the actions the Minister is to take in the event of the transfer being approved.

Clause 366—This clause provides that a Minister, a delegate or a person acting under their direction, is not liable to actions or suits in respect of matters done or omitted to be done in good faith in the exercise of any powers conferred by this Part.

Clause 367—This clause enables the Minister to require the production of information in connection with any activity authorised under this legislation and outlines the procedures to be followed in making such a request. These provisions would be used to obtain information which is believed to be necessary for the proper administration of the legislation. For example the Minister might wish to obtain data to assist in the determination of the quantity and value of minerals extracted for royalty purposes.

Clause 368—This provision is similar to clause 367. It empowers the Minister to request a person to appear personally to provide information.

Clause 369—This clause gives the Minister or an inspector the power to administer an oath or affirmation, and to examine on oath, a person attending before them.

Clause 370—This clause enables the Minister to request the production of documents in connection with any activity authorised under this legislation and outlines the procedures to be followed in making such a request. These provisions would be used to obtain documents which are believed to be necessary for the proper administration of the legislation.

Clause 371—This clause enables the Minister to request the production of samples in connection with any activity authorised under this legislation and outlines the procedures to be followed in making such a request.

Clause 372—The clause requires a person to provide information or to answer a question, notwithstanding that the information or answer may tend to incriminate him or her. This clause also creates an offence for any person to give false or misleading information to the Minister.

Clause 373—This provides protection to the supplier of information which has been requested and given to the Minister. The information or answer does not become admissible evidence against the person in proceedings other than proceedings concerned with the giving of false or misleading information. The aim of this clause is to use the power for the purposes of the administration of the legislation and not for the purposes of obtaining evidence for prosecution.

Clause 374—This clause establishes as a general rule that the Minister cannot release or publish confidential information or samples.

Clause 375—This outlines the circumstances in which confidential information or samples may be released. If the licence holder releases or gives consent to the release, then the Minister may do so.

Clause 376—Under this provision, the Minister must make available reports over areas that are no longer the subject of a licence.

Clause 377—This defines what is meant by a compliance inspection.

Clause 378—This outlines what an inspector appointed under this legislation can do when carrying out a compliance inspection.

Clause 379—This empowers an inspector to inspect licence related premises without a warrant provided the inspector is able to produce an identity card on request by the licence holder.

Clause 380—This allows an inspector to carry out a compliance inspection of any premises provided the owner has given consent.

Clause 381—This empowers an inspector to carry out a compliance inspection with a warrant.

Clause 382—This is a procedural provision. It outlines the steps that an inspector must take to obtain a warrant. It also specifies what the warrant must contain.

Clause 383—This allows the inspector to use such assistance and force as is thought reasonable and necessary to carry out a compliance inspection.

Clause 384—This requires occupiers of premises to provide all reasonable facilities and assistance to enable the inspector to carry out a compliance inspection effectively.

Clause 385—This places an obligation on a person to comply with a direction given by the Minister.

Clause 386—This provision empowers the Minister to give a direction on any matters on which regulations may be made. In particular, it highlights the fact that they can cover environmental protection and site rehabilitation.

Clause 387—This provision allows the Minister to issue a direction to the licence holder. It outlines the procedures which must be followed by the Minister in giving directions. The intent is that directions are to be title specific and generally be in response to an emergency or unforeseen event that needs to be implemented quickly.

Clause 388—This allows directions to incorporate material in other documents. For example, a direction may require a diver to follow the safety rules as set out in a particular manual produced by a recognised professional diving association.

Clause 389—Empowers the Minister to issue a direction which prohibits an action being taken or allows it only with the consent of the person affected.

Clause 390—This provides that a direction given to a licence holder or a special purpose consent holder may extend to include associates if they are specified.

Clause 391—This clause obliges the licence holder or a special purpose consent holder to ensure the direction is brought to the notice of associates if it extends to them.

Clause 392—Provides that a person can be given a direction in respect of an outstanding obligation. This is to ensure, among other things, that a licence holder can be given a direction in respect of rectification of site damage and environmental rehabilitation after operations have ceased.

Clause 393—This clause provides that a direction can over-ride earlier directions, regulations, or conditions relating to safety or the environment. This is necessary so as to give the Minister the flexibility to respond quickly to any emergency.

Clause 394—Empowers the Minister to impose a deadline for compliance with a direction.

Clause 395—This empowers the Minister to do anything required by the direction if the person has not complied with the direction within a specified time.

Clause 396—This allows the Minister to recover any costs associated with the action taken under clause 395 from the title holder or associate.

Clause 397—This outlines the defence that a title holder or associate can mount if faced with a claim from the Minister for the recovery for debts due to the State.

Clause 398—This clause specifies that a security may be required to be lodged and places restrictions on how it is to be used.

Clause 399—This outlines the occasions when the Minister may determine the amount of security as well as the time it is to be lodged.

Clause 400—This outlines how the security may be used by the Minister.

Clause 401—This clause provides that regulations may be made which specify the manner of removal of any property etc. that was brought into the area in connection with offshore minerals activity, but which is no longer used in accordance with the conditions of the licence.

Clause 402—This provides that regulations may specify the manner in which any damage to the environment of the title area may be rectified.

Clause 403—Under this provision the Minister is empowered to set up specified areas called "safety zones" for the purpose of protecting a structure or equipment in coastal waters.

Clause 404—This provides that once a safety zone has been notified in the Gazette, all shipping to which the notice applies is prohibited from entering or remaining in the zone without the Minister's consent and then only subject to any conditions attached to such a consent. Defence mechanisms against prosecution are also included.

Clauses 405 to 420—(Numbers not used to maintain uniformity with corresponding sections in the Commonwealth Act).

Clause 421—This empowers the Minister to appoint inspectors to enforce the provisions of this legislation, regulations, conditions of licences and consents as well as directions.

Clause 422—This provides that inspectors must be issued with a photographic identity card as proof of his or her authority to inspect any aspect of the operations being carried out under the legislation.

Clause 423—This places an obligation on a person to return the identity card to the Minister as soon as possible after the termination of the appointment as an inspector under this Act. The intention is to ensure that the integrity of the identity card system is maintained.

Clause 424—This clause defines "year" for the purpose of fee calculation.

Clause 425—This clause provides that a licence holder must pay annual fees as prescribed.

Clause 426—Notwithstanding any prescribed fee, this clause puts a limit on the annual amount payable in respect to each licence.

Clause 427—This provides that fees are due within one month of each anniversary year.

Clause 428—This clause defines "royalty period" in terms of six month segments.

Clause 429—This clause provides that the holder of a mining licence must pay a royalty for all minerals recovered.

Clause 430—This clause enables the Minister to set royalty rates by an instrument in writing, and the rate set will apply to the mineral or minerals specified in the instrument while the instrument remains effective.

Clause 431—This clause enables the Minister to set a lower rate of royalty for individual mining licences where it is determined that mineral recovery in specific cases would be uneconomic at the general rate set.

Clause 432—This clause provides for the value of a mineral extracted to be agreed between the Minister and the holder of a mining licence, or set by the Minister.

Clause 433—This clause provides that, for the purpose of royalty calculation, mineral quantity can be agreed between the mining licence holder and the Minister or, where there is no agreement, the quantity will be determined by the Minister.

Clause 434—Provides that royalty is payable within one month of the end of a royalty period.

Clause 435—This clause continues the existing arrangement whereby the royalty breakup is the same as under the Commonwealth Offshore Minerals Act 1994.

Clause 436—This clause provides that the licence holder is liable to pay a penalty if royalty payments or fees are not paid by the due date.

Clause 437—This clause provides that any payment outstanding is a debt to the State.

Clause 438—This clause empowers State courts and authorities to operate under the Commonwealth Act.

Clause 439—This clause enables the Minister to delegate any of the Minister's functions by instrument signed under the Minister's hand and gazetted.

Clause 440—makes it an offence to give false statements or information under the Act.

Clause 441—This provides for the method of service of documents on a licence holder.

Clause 442—Provides that the Governor may make regulations from time to time to assist the proper administration of this Bill.

Schedule 1—This schedule describes the coastal waters to which the Bill applies.

Schedule 2—makes consequential amendments to other Acts.

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

ROAD TRAFFIC (ROAD RULES) AMENDMENT BILL

Returned from the House of Assembly without amendment.

CITY OF ADELAIDE (RUNDLE MALL) AMENDMENT BILL

Returned from the House of Assembly without amendment.

FISHERIES (GULF ST VINCENT PRAWN FISHERY RATIONALISATION) (CHARGES ON LICENCES) AMENDMENT BILL

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

The Hon. K.T. GRIFFIN (Attorney-General): 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 makes a number of amendments to the *Fisheries (Gulf St. Vincent Prawn Fishery Rationalization) Act 1987*.

The Act enacted in 1987 provided for six of the 16 boat fleet to be removed from the Gulf St. Vincent Prawn Fishery through a licence surrender and buy-back scheme. Money was borrowed from the South Australian Government Financing Authority (SAFA) to pay compensation to those licence holders leaving the Fishery. The mechanism for repayment is by way of a surcharge on licence holders remaining in the Fishery.

The initial repayment of debt by licence holders was minimal, then suspended due to dissent about their capacity to pay. Repayments resumed during 1994-1995 when the Fishery reopened after being closed for almost three years. In 1994 the debt was taken over by Treasury and restructured at a more favourable interest rate.

In 1995 a review of the Fishery was undertaken by Dr. Gary Morgan. The recommendations of the review addressed a number of issues including licence transfer/amalgamation which could lead to less licence holders operating on a more efficient basis and proposed fishing strategies aimed at ensuring long-term sustainable development of the Fishery.

Subsequently the Act was amended to enable the transfer of licences. Under the amended provisions the Director of Fisheries can approve an application for transfer of a licence if the accrued and prospective liabilities attributable to the licence have been paid.

However, the Act contemplates equal surcharges applying to licence holders and therefore there is no scope to impose a surcharge on the remaining licences when one licence is transferred. That is, all licences including the one that has paid its debt are liable to the surcharge.

The amendments proposed by this Bill are aimed at providing a mechanism to enable an incoming licence holder to assume the debt that has accrued to that licence. With these changes in place negotiations surrounding the outstanding debt of individual fishers can be pursued.

Recent discussions between the Government and licence holders in the Fishery have identified a number of proposals that would resolve the issue of debt and provide the climate for further improvement in the commercial viability of the Fishery.

Giving due consideration to the improvements that have occurred in the long-term sustainable future of the Fishery and the willingness of industry to resolve outstanding issues of debt, it is proposed to amend the *Fisheries (Gulf St. Vincent Prawn Fishery Rationalization) Act 1987* to remove the requirement for a transferor to pay any prospective surcharge liability and allow the incoming licence holder to assume the debt.

In providing the above explanation of the proposed amendments, I advise that detailed consultation has taken place with the Gulf St. Vincent Prawn Fishery Management Committee and the Fishery association.

I commend the measures to the House.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

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

Clause 3: Amendment of preamble

This clause amends clause 5 of the preamble to the principal Act by striking out the word 'equally'.

Clause 4: Repeal of s. 4

This clause repeals section 4 of the principal Act which deals with the transfer of licences. Section 4 prohibited transfers of licences until 1 April 1990 and since that time a transfer of a licence has required the approval of the Director of Fisheries. The Director is required to consent to a transfer if the criteria prescribed by the regulations are satisfied and an amount is paid to the Director representing the aggregate of the licensee's accrued and prospective liabilities by way of surcharge under the Act, less any component of that prospective liability referrable to future interest and charges in respect of borrowing. The section also provides that where the registration of a boat is endorsed on a licence to be transferred, that registration may also be transferred.

The effect of repealing section 4 is that a licence in respect of the Fishery will be transferable in accordance with the scheme of management for the Fishery prescribed under the *Fisheries Act 1982*. The criteria prescribed by the *Fisheries (Gulf St. Vincent Prawn Fishery Rationalization) Regulations 1990* are identical to, and thus duplicate, those prescribed by the *Scheme of Management (Prawn Fisheries) Regulations 1991* under the *Fisheries Act*.

The new section 8 substituted by clause 5 of this measure will provide that the licensee's liability under the *Fisheries (Gulf St. Vincent Prawn Fishery Rationalization) Act 1987* will, on transfer of the licence, pass to the transferee (the new licensee). Section 38(4) of the *Fisheries Act* already provides that where a licence is transferable, the registration of a boat effected by endorsement of the licence may be transferred.

Clause 5: Substitution of s. 8—Charges on licences

This clause repeals section 8 of the principal Act and substitutes a new provision.

Proposed subsection (1) requires the Minister, by notice in the *Gazette*, to quantify the net liabilities of the Fund under the Act as at the day fixed by the Minister in the notice ('the appointed day').

Proposed subsection (2) provides that, as from the appointed day, each licence is charged with a debt calculated by dividing the amount determined under subsection (1) by the number of licences in force on the appointed day.

Proposed subsection (3) provides that the debt charged against a licence will bear interest at a rate (which may vary or be varied from time to time) fixed by the Minister for that licence and the liability to interest is a charge on the licence.

Proposed subsection (4) requires a licensee to pay the debt, together with interest, in quarterly instalments (which may be varied from time to time) fixed by the Minister by notice in the *Gazette* and payable on a date fixed by the Minister in the notice and thereafter at intervals of three months, or if there is an agreement between the Minister and the licensee as to payment, in accordance with the agreement.

Proposed subsection (5) provides that where a licence is transferred, the liability of the licensee passes to the transferee.

Proposed subsection (6) provides that any amount payable by a licensee under the Act may be recovered as a debt due to the Crown.

Proposed subsection (7) provides that if a licensee is in arrears for more than 60 days in the payment of an instalment, the Minister may, by notice in writing to the licensee, cancel the licence.

Proposed subsection (8) provides that where a licence is surrendered on or after the appointed day or is cancelled under subsection (7), no compensation is payable for loss of the licence and the total amount of the debt charged against the licence becomes due and payable by the person holding the licence at the time of the surrender or cancellation.

Proposed subsection (9) defines 'appointed day' and 'net liabilities of the Fund under this Act' for the purposes of the section.

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

INDUSTRIAL AND EMPLOYEE RELATIONS (WORKPLACE RELATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 May. Page 1231.)

The Hon. T.G. ROBERTS: The Labor Party will oppose the second reading of this Bill. During the consultation processes that have occurred in the time in which the Bill has been put in place and introduced in the Lower House, the attitudes of the stakeholders—those whom we on this side of the House represent—have hardened.

The Bill had a difficult birth in that it was a mirror image of a Bill that had its foundations put together away from the parliamentary process in an industrial relations scene that included the divine lights of the H.R. Nicholls Society. The Bill has been some time in reaching this House, and it certainly has had a very untidy upbringing. It is the result of some 10 years of negotiations, discussions and softening-up processes that began to impact on Australia's industrial relations via Western Australia and also via the trans-Tasman fields in the New Zealand industrial relations area.

It is not that Australia, and South Australia in particular, has a bad industrial record or that the legislation which already exists is heavily weighted towards workers in this State or in this nation. In fact, if one looks at many of the statements that have been put together, particularly over the past six months as trends have started to solidify, one sees that Australia, and South Australia, is producing a working poor who are now entirely powerless in relation to the industrial relations scene in negotiating higher rates of pay over and above what would be regarded as minimums in any other industrial nation.

This legislation is attacking those people whom we on this side of the House regard as being the poor and the powerless. It also refers to the unemployed because, to pass legislation such as we have before us at a Federal and State level, we need a large pool of unemployed people to put pressure on those who are employed in precarious positions. A large pool of unemployed would be put in the position of bargaining for their jobs.

The industrial relations scene certainly has altered from the 1970s to the 1990s. It has changed the balance of power within the industrial relations arena from what was probably regarded as one of the most enlightened industrial relations legislative programs in the industrial nations to follow the darkest of all industrial relations programs.

In the 1970s, we were evolving towards a situation based on the Swedish model or the models in Scandinavia where there was a contract between Government, employers and employees. A social contract was struck between those in employment and those who managed employment and on behalf of those who were unable to enter the work force. We had a social service system, a welfare system, that was paid for by adequate levels of taxation; we had training programs in place for those people in preparation for entering the work force; we had enlightened industrial relations taking place in many of the premises on which the nation's economy relied to deliver productivity; and we had an enlightened Government that was able to put in place legislation that fostered relationships between employer and employee to allow it all to happen.

We were in the process of putting together a uniquely Australian style of industrial relations evolving out of the very unstable 1960s. We almost evolved to a position of enlightenment that allowed relationships between employers and employees at a workplace level to work in harmony and in a cooperative spirit to a point where productivity was being maximised. Even though the models in the Scandinavian countries were being heralded as the models to follow, we were putting together a model that I am sure the rest of the world would have liked to have in place. It was not based on patronage, authority or fear: it was based on a contract between employers and employees. I know members on the other side would say that a lot of strikes and disputation took place during that period which cost a lot of productivity and, in some cases, members could pick out a dispute that was costly to employers and/or companies at a particular time, but in all democracies you have to have those sorts of disputes to allow the democratic processes to work.

Had the evolutionary processes continued into the 1980s, we could have had a model that included the social contract being negotiated at that time between Labor Governments and the trade unions and an advanced position of cooperation between trade unions and employers. This would have been done in an harmonious way and, as I said, taken into account the plight of the unemployed and the people who were unable to enter the work force or who were under employed or unable to maximise the number of hours to bring home a reasonable take home pay to cover their family responsibilities. The industrial relations packages being negotiated at that time envisaged those objects. Academics in universities through to shop stewards in industrial organisations were working in cooperation, papers were being debated and discussed, there were a lot of seminars and there were a lot of training programs for senior management, middle management and trade union officials. Unfortunately, that all came to an abrupt halt.

Much of the good work that was put together during that time still remains. There are remnant industrial organisations that still have an enlightened view on industrial relations. They are the organisations that talk to us about the worst impact of some of the Bills that have been before not only this House but also Parliaments in other States and in Canberra, which they fear will overturn the good relations and cooperation that they have in their organisational structures which was built over a long period of time—over some 20-odd years—and which had evolved to a point where both organisational structures—labour and capital—had respect for each other and were working in unison to maximise the returns for the shareholders and the employees, and to make sure that those organisations, particularly those in the manufacturing sector, were able to compete internationally by changing their work practices and methods and encouraging employer investment into those premises to remain competitive with our northern neighbours.

Those employer organisations have isolated themselves from any of the claims that are being made currently by the Commonwealth bodies that have been advocating these changes in the industrial relations system that are based on both fear and individual isolation of people within their premises, to a degree where they have been able to still have a relationship where capital and labour have mutual respect for each other and to maximise their returns and opportunities within their work premise.

Unfortunately, the lowest common denominator argument has won the industrial relations struggle within the conservative networks of the power bases within Australia, largely due to the work done by the H.R. Nicholls Society and other organisations that drew their succour and support mainly from the United States models of industrial relations. It is as though Australia does not have the ability to be able to put together a set of industrial relations packages that includes a healthy, happy and enterprising workplace. We have to draw the worst aspects of industrial relations groupings from those countries overseas that rely on isolating individuals out of collective groups.

Australia has a history of collective decision-making and a history of individuals within groups being able to look after each other, and there was also a comradeship that flowed into looking after people who were closest to them in their communities. That was found mainly in mining and manufacturing towns; it was found in the rural industries. The Labor Party and the AWU were built on that sort of camaraderie, and the productivity that grew out of that sort of relationship between capital and labour and respect for each other's position and an ability to be able to use the enterprise that Australians are born with and created through the education system and the workplace system, for whatever the reasons (and nobody has been able to describe it to me yet), has somehow or other been threatening to capital, particularly in sections of the mining industry, and it is certainly not found in the large manufacturing sectors.

I guess probably the worst examples are now in rural industries, where the attacks on the minimum standards of rural workers have been obscene. The attacks on workers in isolated areas and in particular in rural industries were orchestrated; it was not as if capital demanded change. It was brought about by orchestrated events that grew mainly out of meat processing in the isolated rural industries, where union organisations were thin on the ground and where, although many employees were members, they had difficulty in being serviced from metropolitan or regional areas: the isolation added to their inability to organise to ward off the attacks. Not only were they the most vulnerable but in most cases they were the most lowly paid.

You would have to ask yourself why we have a Bill before us now that is attacking the lower end of the work force. There is no Bill before us at the moment to curb the appetites of the executive class or to attack middle management, and there is no curb on professional fees and services. I would love to see a Bill brought into this Council under which we could consider placing limits on medical professionals, for instance, who in some cases are putting unnecessary pressure on the Medicare scheme.

But we do not have a Bill such as that: we have a Bill attacking the most defenceless people in our society, namely, those people who in the main have no union protection or, if they do, whose isolation prevents their organising in groups to protect themselves from the attacks on them that have come through capital's inability to manage the direction and flow of its investment strategies in an organised way. Those members in this Council—and there are a few—who have an understanding of how the meat industry in particular works and operates would know what I am talking about. There is a proliferation of investment into the kill and export areas of the meat industry.

The whole history of the meat industry is of opening up new investment projects and new abattoirs and closing down older facilities in the area. The South-East is probably a good example of that, and the Mid North used to be a target for those sorts of pockmarked investment strategies. The people in those places had little or no protection, and in a lot of cases they were left to deal with their organisations with very thin communications. Mind you, in those isolated areas it did not reduce their capacity to fight, but in the end in a lot of cases the town suffered and pressure was put on those employees to accept whatever was the going offer from those people who were closing down works and paying off workers to start them up again somewhere else, or recommendations would come from the shop floor to accept the weakened conditions that were generally put in place by administrators brought in to administer those places.

At the moment we have a tax not only on workers in isolated areas in the meat industry but also on workers in the mining industry. There are workers in a number of towns in Queensland at the moment whose ability to work and to take home a salary has been stopped. Over the past two years strikes have occurred in one particular area in Queensland where the right to be a union member is at stake. As I said, that is all due to the legislative program that was put together over a decade ago by the H.R. Nicholls Society and others that are now running the Commonwealth and State agenda in relation to an industrial relations scheme that we, as an advanced industrial State, must accept.

At this moment the H.R. Nicholls Society, and others, would be saying that its work has been well done on the basis that it started as a very small organisation. It gathered around it a lot of influential people who, in the first instance, were never game to own up to attending meetings, but eventually even the Prime Minister and others have quoted from the H.R. Nicholls Society handbooks in relation to their aims and objectives. An entirely different industrial relations scene confronts us out in the real world at the moment. We have, as I said, enlightened employer organisations that have isolated themselves from the legislation and will not give it credence at any price.

They have continued their evolutionary programs in relation to better employee/employer relationships. They have not tried to cut the wages and conditions of their work force but have put into place targeted investment strategies, industrial training and education programs and strategies and occupational health strategies. They have not neglected those areas. They leave no stone unturned to ensure that they have a well trained, well equipped and highly advanced technical elite who are able to compete with the best in the world. Some sections of the manufacturing sector are able to export into Asia and compete against Asian competitors using the best form of industrial relations, which is cooperation and not competitive pushing of individuals against individuals to maximise their productivity.

They work collectively with senior middle management and junior management in a way that enables their employees to have some dignity. In respect of some members on the other side in another place who have not had any experience with industrial relations, it appears to me that their agenda is more ideological than based on real, practical experience and how industrial relations actually works. I suspect that if those employers to whom I referred earlier (the enlightened employers) were able to hold seminars and make recommendations about any legislation to lift the productivity levels of some of the smaller enterprises and others who work under State awards, and if they were to set up a model of legislation for industrial relations, I am sure they would not draw up a Bill such as the Bill with which we are dealing at the moment.

Unfortunately, as I said, there are people who do not have any experience in industrial relations who believe that an umbrella of harsh and unfair legislative arrangements can bring about good industrial relations because of the discipline that is required to allow that industrial relations to take place, but it is based mainly on fear.

Fear is not a good motivator for long-term relationships in any business or enterprise. The Australian Labor Party has joined with the United Trades and Labor Council to bring to employees' attention the unfair, harsh and unjust legislative program that is being put together to run through both Houses. A demonstration outside this place last month brought together a whole range of people, employed particularly in the metropolitan area although there were some from regional areas, who held a rally under the heading of 'blowing the whistle on unfair work laws', and they certainly roundly condemned the propositions put forward in the new workplace relations legislation.

Not surprisingly, traditionally and historically those in employment who have a collective sense of responsibility in relation to their communities came out not only to defend their own positions involving security of their employment, award systems and industrial relations schemes they were running in their workplaces but also to protect the interests of potential employed people who would come under legislation such as this. They also came out to protect the interests of young people who have not yet entered the work force, because the Bill brings into play a most unfair system of age discrimination where, instead of individuals being paid for the job they are doing, they are paid because they are a certain age.

I draw members' attention to some of the rhetoric directed at the benefits of the New Zealand schemes, that is, the single page agreements based on individual workplace agreements for individuals and what that has done to community relations in New Zealand in metropolitan and isolated areas. There are enough illustrations in Australia at the moment to indicate similar sorts of agreements which have been struck away from the eyes of the commission and away from any directions that might be applied by courts but which have been negotiated nevertheless. Some of the Australian workplace agreements have certainly been struck away from the eyes of union negotiators who would advise most of the workers concerned not to accept the terms and conditions inherent in those agreements.

Some agreements would match up to award conditions and would be equal to the awards on which they were modelled, but in the main the intentions of the first round of negotiations for Australian workplace agreements was to wean the work force away from the protection of the union officials who had the responsibility for negotiating with the people concerned, and it was possible for packages of AWAs to be put together which escaped those prying eyes.

Where an analysis is done of some these AWAs, it has been noted that the workers are broken up into what could only be regarded as anxious individuals within collective workplaces, and that the morale within many of these workplaces is very low and the productivity lost because of this has not been measured or analysed.

I am sure that the seething resentment that a lot of individuals have within these workplaces makes it very difficult for middle management to maximise the productivity levels and the ideas that are needed for businesses to keep moving forward. Many of these people are reluctant to make any contributions at all. I say that generally because there are, as I said, AWAs. There are places where these workplace agreements are working because the people who have put these AWAs into place have perhaps a more enlightened attitude than some of those who are trying to push the legislation through this Chamber.

So, the premise on which this Bill is based is flawed. The general theme, as I said, from most of the large employers out in the field is that the current Industrial Relations Act is adequate. South Australia has not had a spate of strikes that have not been able to be settled. There is not an industrial relations crisis in this State. The lower paid workers in South Australia are not trying to climb over the backs of those in Sydney, New South Wales, the Gold Coast or the Sunshine Coast to get wages equivalent to those which are being paid interstate. There is no real reason why this sort of legislation should be brought into this State at this time. It is very disappointing to see that all members of the Liberal Party are supporting the introduction of these measures.

The Trades and Labor Council and a number of academics in this State put together an analysis of the legislation, and these are people who are accustomed to working constructively in the industrial relations area. They are the sort of people who prefer to be providing ideas to progressive industrialists and employers to enable enterprises to survive in this very difficult international climate and so that they can move their investment packages forward, allowing employment to increase through extra productivity. They have put their minds to what is regarded as a very negative assessment of this legislation, and unfortunately people now have to draw lines in the sand and spend a lot of time trying to defend an industrial relations scene that is now under attack.

This means we are moving backwards. We are getting more conservative and going back probably to the 1930s and 1940s, when there is no real reason to move back into those times. We should be moving into a more enlightened industrial relations scene that better reflects our move into

high technology, into a new era of sustainable work enterprise, commerce, etc., instead of moving back to disempowering individuals within collective workplaces.

I received a letter which is addressed to Dr Michael Armitage, Minister for Government Enterprises, Parliament House, from South Australian academics, and it relates to the proposed amendments to the industrial relations legislation. It is signed by Professor Andrew Stewart, School of Law, Flinders University; Professor Claire Williams, Department of Sociology, Flinders University; Dr Barbara Pocock, Senior Lecturer, Department of Social Inquiry, University of Adelaide; Professor Chris Leggett, School of International Business, University of South Australia; Associate Professor Chris Provis, School of International Business, University of South Australia; Mr John Spoehr, Acting Director, Centre of Labour Research, University of Adelaide; Mr Gerry Treuren, Lecturer, School of International Business, University of South Australia; Mr Stewart Sweeney, Lecturer, School of International Business, University of South Australia; and Dr David Palmer, Lecturer of American Studies, Flinders University. They have put their name to an open letter to the Minister, some of which I will read into *Hansard*, as follows:

Dear Dr Armitage, as academics from South Australia's three universities, with diverse experience and expertise in employment and industrial affairs, we write to offer our initial views about your Government's proposed amendments to State industrial relations legislation as outlined in the draft Bill released on 18 February 1999.

The South Australian industrial relations system can justly be viewed as one of the State's strengths. Although important legislative changes have been made by both Labor and Liberal Governments during this decade, these have not altered some of the system's key characteristics:

- the relative simplicity of the legislation;
- low levels of industrial disputation and cooperative behaviour by unions and employers alike;
- the faith that parties generally have in the Industrial Relations Commission and the sensible, balanced approach it brings to its task.

We are concerned that these features may now be sacrificed or ignored in the rush to import elements from other systems, without clear evidence about the benefits to be gained.

After careful analysis of the proposed changes we wish firstly to raise a series of general matters relating to the issues of employment, fairness, flexibility and social life in our State. Having outlined our concerns in these areas we turn to a more detailed commentary on certain aspects of the proposed amendments. Our main areas of concern are that:

- the hoped for employment effects are unlikely;
- the changes will result in greater inequity;
- they will damage the quality of social life in South Australia;
- they will undermine the hitherto constructive role of the Industrial Relations Commission;
- they will encourage those employers who wish to engage in exploitative contracts;
- it will inhibit employees' capacity to join unions; and
- the elimination of unfair dismissal redress for many employees is discriminatory and unfair.

General concerns—Employment. Firstly, the amendments are proposed to increase employment, especially amongst young people. This implies that a relationship exists between employment growth and changes to the regulation of industrial relations. There is in fact little evidence that a shift to individual employment contracts, the removal of recourse to unfair dismissal provisions for many, and the extension of junior rates for young people and related measures will affect aggregate employment levels. The case is simply not established.

In delivering the keynote address to a recent conference in Adelaide, Professor Keith Hancock, eminent South Australian economist, addressed this issue. His comprehensive analysis of the relationship between employment levels and the decentralisation of industrial relations systems, both in Australia over the last 25 years and internationally, provides significant evidence which undermines the assertion of the supposed effect. What decentralisation of systems does guarantee, however, as Professor Hancock's work reveals, is a widening of the dispersion of earnings between different groups of workers, creating greater inequality. We believe, based on this and other research, that the proposed amendments will not achieve the employment growth objectives the State Government seeks.

I have to accept that the assessment made by these signatories is based on hard-line evidence, that is, that they have used statistics to provide them with their analysis. I can tell the Council from personal experience that the stories that are told to me by people in employment today reflect a worse situation in relation to those matters than have been listed as general concerns by the academics who have put their name to this paper. It is the less skilled, women, particularly young women, and young males who are the worst affected by the so-called good employment climate in which we operate at the moment under the existing industrial relations scene.

The signatories spoke about the social fabric, and the fact that capital now requires total commitment from labour with longer hours but with no increase in take-home pay is widespread. I am sure that many people on the other side of the Council separate out Bills when they come before the Council and consider the impact of those Bills or their potential impact and how society operates generally. In particular, they consider, when the take-home pay of families is reduced or when the number of hours that either of the parents work or, in some cases the hours that both partners work to bring home the same pay, how that impacts, first, on how those two individuals interact together during their social life, if they have any social life outside of work, and on how they interact with their families, with their children. I go on to quote the letter:

Reliance upon changes in labour market regulation to achieve employment growth is an unreliable and unproven remedy. Such changes often have the opposite effect to that which is intended. For example, a fall in wages for young people relative to others is more likely to result in labour market substitution of the young for the old, rather than net job creation. Such outcomes are both inefficient and inequitable.

Similarly, there is no evidence that making unfair dismissal possible in smaller companies will create employment: indeed, evidence from the Australian Workplace Industrial Relations Survey (the most comprehensive data available on this issue) suggests that unfair dismissal regulation is a lower-order concern to small business in relation to hiring decisions.

Changing the regulatory regime of industrial life in our State is likely to have many effects, but they are unlikely to include a significant boost to employment. Indeed, one consequence of the proposed amendments is likely to be a decline in demand for labour over the medium term. Industrial laws that result in lower wage outcomes are more likely to dampen demand for goods and services by eroding the purchasing capacity of employed South Australians.

Fairness

Secondly, these proposals will increase inequities that are already widening between those who are well paid and those who are not, between the young and old, and women and men. Research shows that the wage gap between South Australians and the rest of Australia is widening, as are wage gaps among South Australians, leaving many with shrinking pay packets.

My comment is that this legislation may well be directed at making South Australia a low wage State to make it more attractive to capital over and above the eastern States so as to provide at least one distinct advantage over prospective investment regimes that may be proposed overseas. I could probably advise that those wage gaps would have to be fairly large before consideration would be made by new capital entering Australia to look at South Australia over and above the eastern States because manufacturing enterprises, in particular, prefer to be near larger centres of population. The question is: how far does the Government want to drive this State's wage base down? The letter goes on to state:

The gap between women and men has also been widening over recent years: while the ratio of women's earnings was slightly better than the national average at the beginning of the 1990s, it has widened more recently with increased enterprise bargaining and slid markedly between 1994 and 1997. Many women workers in South Australia are covered by State common rule awards. The proposal to reduce these awards to a limited range of matters will especially affect the thousands of women working in retail, education, clerical and related industries.

Flexibility

There already exists considerable potential for flexibility in our State system. Few employers exercise this capacity to its full limit under existing arrangements. For example, virtually no use has been made of the enterprise flexibility provisions written into all State common rule awards in the mid-1990s. Moreover, as the Employee Ombudsman has repeatedly noted in his annual reports, there remains scope for much more imaginative use of enterprise agreements under the existing legislation to improve flexibility and productivity in both unionised and non-unionised workplaces.

I pause to pay a tribute to the Employee Ombudsman, who will probably have his powers weakened considerably in the not too distant future, as the job that he has done has been appreciated, particularly by those people in lower paid jobs where there is little or no union organisation. The Employee Ombudsman has highlighted a lot of the weaknesses in the current system publicly and in his reports, and his latest report probably has more imaginative analysis of the current state of play in relation to the industrial workplace than the books written by some of those enlightened politicians to promote their own individual power and wellbeing in other places. It is an unheralded report which I believe should get more airing. It would do the Government well to use it as a model perhaps for the withdrawal of this Bill and for drawing up one of its own—not one based on Reith's premises. The letter goes on to cover a wide range of other issues, including marginalisation of the commission by removing the commission's powers and setting up alternatives. The letter refers to workplace agreements, as follows:

It is asserted in the information booklet [that was circulated]—

and one of the booklets that I received focused on the work force (it was very badly edited)—

that 'approximately 60 per cent of South Australian businesses are denied access to individual agreements'. In fact, all businesses are able to conclude individual agreements with their employees. Each employee has a contract of employment and may accordingly be hired on agreed terms and conditions which are individually tailored to that employee's circumstances—subject to compliance with the provisions of applicable statutes, awards and enterprise agreements.

The suspicion inevitably arises then that the purpose of making provision for a statutory form of individual agreement is to permit the reduction of wages or other conditions which an employee would otherwise enjoy. That suspicion is strengthened by what the draft Bill proposes in relation to the approval of the new workplace agreements, whether individual or collective. Instead of the existing requirement for enterprise agreements that employees not be disadvantaged in relation to their award entitlements, workplace agreements would only need to comply with a limited set of minimum (indeed minimal) conditions on just six matters—which do not, for instance, include hours of work. Only in relation to workers covered by Federal awards would an award-based no-disadvantage test continue to apply. For workers covered by State awards, this makes a mockery of any notion of those awards acting as a 'genuine safety net'.

It is apparent then that the severe reductions in pay and conditions will be possible through the new workplace agreements. Some might argue that labour costs must be lowered in order to boost employment and that accordingly it is necessary to empower employers to secure more favourable deals than awards or legislation presently allow. But if that is the Government's thinking, it should be stated openly and debated on its merits—and, as we have indicated, the argument is not supported by the research literature.

And nor is it supported by the anecdotal stories that have been reported to me. The letter continues:

On a more general note, we cannot accept the suggestion that employees are necessarily in a position to bargain effectively when dealing directly with their employer. Most simply lack the information, resources and negotiating skills to do any more than haggle over minor issues. They may also lack alternatives. The worker who is told to 'Take it or leave it' (that is, to accept certain employment conditions or lose their job or a chance of a job) is often left with no practicable choice but to accept, especially if they are unskilled and employment is in short supply. Theoretically, a worker in this situation could complain afterwards that they had been 'coerced' into signing an agreement.

The situation that that describes is more common than perhaps members opposite would appreciate. However, it does not matter what contract you draw up to allow individuals to negotiate on their own enterprise conditions, because they will never be able to match the skills and the resources that big companies or even franchised companies with unlimited funding can bring to bear.

We can imagine an 18 year old negotiating his or her own wages and conditions for their first job with senior solicitors—or even barristers in some cases—who place single page agreements or AWAs in front of them, to sign on the basis that, 'You can work here on these wages and conditions for the next six months but, after that, your probationary period finishes, and we will be asking you to have a look at another set of circumstances which we hope you will sign.' In most cases, desperation makes those people sign. It is not because they want to sign on the basis that the information available to them at any given time empowers them to challenge whether the offers that have been made to them are fair and reasonable.

The suspicion that most people in industrial relations have about the Bill is that, if the opportunities for negotiating workplace agreements already exist and if the terms of reference that are being asked for in the legislation are already provided in the industrial relations scene as we know it now, why is the Government bringing in a legislative framework that, in its words, does not disadvantage the employee? We have to ask that question. I have skipped some of the letter. Under the heading of Award Simplification, which is one of the arguments employers are putting forward for signing up new employees in particular, the letter states:

The existing legislation already makes provision for the review and simplification of awards. Importing a Federal style concept of 'allowable matters' would not only rob the commission of flexibility, it would also guarantee prolonged and costly litigation as to what was and was not within the allowable categories. The removal of significant award conditions would also impact adversely on the many employees who rely on the State award system for protection, and whose experience of 'workplace bargaining' is unlikely to amount to more than being required to accept a set of terms drawn up by their employer if they want to obtain or keep a job.

There are also problems with termination of employment, freedom of association (which is a major issue among those people who have a history in industrial relations), making a workplace fair, and certainly putting employees on a reasonable footing with employers in relation to enterprise awards and AWAs. If unions cannot be involved in negotiating on behalf of disempowered employees, it is quite certain that those employees will end up being disadvantaged. So, the legislation recognises that. It recognises that there would be no point in changing the legislation to allow for those provisions if you allowed a fair game to be played, that is, allowing those employees to have representatives who were

able to negotiate fairly on their behalf via trade unions using the same base and rules as the employers.

The big thing missing from the legislation, if the Government did intend to change the rules to make them fair so that employees were not disadvantaged, is the right to information. One of the things that was developing in the 1970s through enterprise bargaining, collective bargaining and industrial democracy in those enterprise bargaining regimes was also a reference to rights to information. I have not seen the introduction of any clauses in this Bill, nor any statements made by the Minister elsewhere, to empower individuals with the right to information to analyse the AWAs being placed before them or for them to be able to analyse the enterprise in which they were working. There was no ability for them to be given guaranteed rights to information.

So, if the Government is to set up a fair and equitable agreement between labour and capital, certainly the Bill should provide the ability for individuals to consult union officials. Instead of that, they are denied access, access is restricted and there is certainly no encouragement for individuals to contact union officials—in fact, it is made much harder. The academics who have signed this letter conclude:

> As South Australian academics we consider the overall package of amendments to be potentially damaging to a system that, on balance, is working efficiently and smoothly for the State. The proposed changes appear sweeping and rash. They present serious risks for the equity of our system and pose particular risks for the young, for women and for the great proportion of South Australians who rely upon State awards for the minimum standards of their wages and conditions. Many of these employees will be potentially disadvantaged by changes that leave them to fend for themselves while allowing effective representation of employer interests, under a regulatory regime that will make both collective bargaining and unionisation more difficult. We would welcome the opportunity to meet with you to discuss the concerns we have raised as to the proposed amendments.

I am not sure whether the Minister has met with them, but I suspect that, if he has, there has been no change to the Bill. The Trades and Labor Council has done an analysis and it would not be a surprise if I said, and had this recorded on *Hansard*, that its position was almost the same as that of the academics, because it has a vested interest in protecting the interests of working people. It also has an interest in protecting the interests of the unemployed and in trying to get these people positions so that they become employable. It has a broader responsibility, perhaps, than have most employer organisations.

It is important that I record in *Hansard* the problem of award stripping and allowable matters. Award stripping has not been defined. I have never seen a description of it in the popular press to which my honourable colleague referred earlier, mainly because it is not in their interest to describe award stripping and the dangers of the legislation for those people who are vulnerable in the workplace. This document, which describes what the Federal experience of stripping back process means, states:

> Through a process of 'stripping back' or 'award simplification',—

which is what the Bill does—

> award provisions not falling within the definition of an allowable matter will be deleted from an award. This process is currently in train through the Australian Industrial Relations Commission, via a special panel of commission members who have been charged with the responsibility of reviewing some 4 000 Federal awards.
>
> The process has taken up immense resources of the commission and the award parties. So disruptive to the operation of the commission has this process become that the President of the Federal Commission is now calling for a simplification of the simplification process!

So, soon we will be down to the single page awards. The document continues:

> Any matters which are not allowable award matters ceased to operate from 1 July 1998, regardless of whether there had been a review of that award or not. Given that only a handful of awards have been reviewed to date, whether a matter is allowable or otherwise has been the subject of extensive litigation before the commission.

Most of those struggles and battles have gone on in the courts without referral back to the rank and file and to people in work, and certainly the unemployed have not availed themselves of any of the battles that have gone on in the commission. They have been taken up by representatives of organisations at an ACTU and Trade and Labour Council level and, in some cases, some of the larger Federal unions. Under the heading 'Who is affected by award stripping back', the document states:

> It is the low paid employees, primarily women, part-time and casual workers, who rely most on the award system and access to the commission for protection of basic rights. Incidence of enterprise bargaining agreements is especially low in industries predominated by women such as child care, aged care, and cleaning.
>
> The effect of restricting the role of the commission in dealing with various industrial issues, together with the reduction in provisions that form part of the award safety net, means that low paid workers who are dependent upon the award for all their wages and conditions (because they don't have access to enterprise agreements) will be the hardest hit.
>
> Matters which have been deemed non-allowable by the Federal Commission in cases which have been completed include
>
> · consultation in relation to change in the workplace, including when an employee is made redundant or their hours are to be reduced;
> · minimum hours of engagement for part-time employees;
> · award provisions dealing with equal opportunity issues; and
> · occupational health and safety issues.

Members can see that the non-allowable matters are of significance. Take them out of awards and they end up being very thin.

A couple of anecdotes were given to me by one of my two sons, both of whom are working in Victoria at the moment because they cannot find work in South Australia or they prefer to work interstate. One son has reported to me anecdotally some of the conditions that are starting to apply through Federal awards interstate. I have not yet had them relayed to me in this State, but I am sure they will reach here once this State legislation is enacted. One is working in premises in Melbourne which will remain nameless. He has to present for work for 42 hours a week, and the spread of hours covers 144 hours. He gets a base of some 30 hours, which are predictably set within that 144 hours, but he then has to present himself within a very short time and, in some cases, within less than an hour (this is in the hospitality industry) following a single telephone call from his employer.

I think most members would agree that that is just poor management. By simplifying awards—reducing the protection for employees—we are playing into the hands of the worst form of management that you could find. It has made management lazy. However, there are still employers who take into consideration the fact that people have lives and families, and they try to give as much notice as possible of a change of hours or a change of shifts. There are certain cases where, because of emergencies, that is not possible. In the case of poor management, they rest on the awards, on the minimums, and that is all they apply. In fact, with respect to women and young males in particular, the worst possible

minimums are applied, and as soon as you bring the minimum standards down through award matters (as is the case with the Bill before us) all that does is play into the hands of very bad employers.

Our young people will adjust: one thing about young people is that they are resilient. There certainly will not be any loyalty to those employers who exploit them, and they will not stay very long in those employment areas. The philosophical position under previous Governments, particularly Labor Governments, was that, and using superannuation as a tool, you were able to build a certain amount of loyalty into your awards and agreements from employees to employers. They would do the hard yards and the extra bits. If you ask a lot of small employers, they will tell you that they are able to survive by having a good relationship with their employees, who are able to put in that little bit extra to allow a productivity lift at a time when trading is particularly heavy. But in the case of employers in any industry who exploit their employees, that loyalty is not there.

I am struggling a bit with my throat—and some people would say very fortunately. I have a virus—I am at the tail end of it, not in the middle of it. But I will conclude. We oppose the second reading. If we have to go into Committee (and I am not quite sure how the numbers fall at the moment, and I do not think members on the other side know, either), we will be looking at amendments suggested out of desperation. However, I will be relying on my industrial colleagues behind me to make sure that it is only the second reading speeches that we will be making in our contributions to this Bill.

The Hon. J.S.L. DAWKINS: I support this Bill. There are substantial changes occurring throughout Australian workplaces, and the State Government has acted to give employees and employers greater flexibility in developing agreements on pay and conditions that better meet the individual needs of businesses and employees.

The Workplace Relations Bill will remove the present rigid limits on the ways employers and employees can reach agreement on pay and conditions, provide a wages safety net for all South Australian employees, protect the right of employees to join a union, encourage employers to take on young people, establish a fair balance between the rights of employees and the need to promote job creation, and provide for dispute resolution by non-judicial mediators to encourage employers and employees to find their own solutions to workplace disputes.

The major provisions of the Bill were outlined as part of the Government's policy platform in the lead-up to the last State election. The purpose of the Bill can be summarised as threefold: to help create jobs, to create a flexible workplace relations system and to provide employees with necessary protections. The legislation is essential for South Australian companies to remain competitive nationally and to prevent a situation where States with more flexible working conditions gain a competitive advantage over South Australian enterprises.

I have received some correspondence strongly supporting this legislation, and it is my intention to focus on a couple of those letters. First, I would like to read into *Hansard* a letter from the Motor Trade Association of South Australia over the signature of Mr Ian Horne, the Executive Director. The letter states:

On behalf of the Motor Trade Association we wish to confirm our support of the proposed Workplace Relations (SA) Act and highlight the following as key areas of reform for our industry.

· 'Focus on the Workplace'—Workplace Relations Amendments 1999

There is no doubt that with appropriate safeguards for all parties, an objective which recognises that employers and employees have power to determine terms and conditions suitable to the workplace, is arguably long overdue in a modern workplace setting.

· Workplace Agreements

In the context of 'Focus on the Workplace', MTA supports the ability to enter into individual or collective enterprise agreements, again with appropriate safeguards to the parties, which also ensures competition between business is on a fair and reasonable basis. The individual agreements, of course, apply in the Federal jurisdiction and MTA has been party to such arrangements negotiated between key employees and the employer. What is not recognised is the work involved in such agreements and the fact that they prevent the proliferation of so-called subcontract arrangements where there is no provision for superannuation, WorkCover, etc. In the event of injury or death, the business is put at risk, often the well-meaning employer accedes to the demands of the so-called subcontractor to enter into such arrangement.

· Simplifying the Award System

The issue of simplifying awards cannot be an issue objected to by any political Party or organisation given the attempts by the Commission and politicians to review award structures over the last 10 years. We can provide examples where the awards system does not reflect workplace realities and does not provide fairness to all employees. As a result of workplace arrangements that were voluntarily entered into by the parties, the costs to the business have been significant when it was realised that these were technical as distinct from equity breaches of the award.

· Termination of Employment

There is no doubt that dismissal laws create a lot of emotion and stress and that a review is needed. In particular the recommendation that after 12 months casual employees should have protection is supported (and arguably endorsed by our own Industrial Court in recent decisions), protection for employees with more than six months against dismissal (allowing business the opportunity to assess a new employee and at the same time recognise the cost of recruitment is a disincentive to terminating short term employees who show potential) and, finally, some form of exemption for small business where they employ less than 15 employees during the first 12 months of employment. This latter issue of special exemption for small business is one that is fully supported by our constituents within our membership.

· Youth Employment

We fully support the Government's proposal to reduce the high level of youth unemployment in one of the smallest States, where there is a range of factors which have been a disincentive to youth employment. Furthermore, the recent junior wage inquiry confirmed our own research and survey material, that South Australian awards, where appropriate, should contain junior rates of pay. That is the case in our industry as a result of canvassing our members on this subject.

· Long Service Leave

MTA has long been an advocate of allowing the 'cashing out' of long service leave.

· Public Holidays

Within the retail motor industry the fact is that we are a service sector. Many businesses within our membership work on public holidays so the idea of being able to substitute a notional public holiday to suit the individual needs of both business and the employee is fully supported.

· Freedom of Association

The MTA recognises that 'freedom of association' targets employer organisations and the union movement. In our own case we rely on the voluntary membership of our Association by individual employers. Whilst we may feel some of the amendments are a little strong and would otherwise intrude into our own operations, we can certainly live with any amendments that do not affect our ability to sell our services on a fair and equitable basis.

In conclusion, we reiterate our support of the above amendments on the basis that they are designed to increase the efficiency of workplace relations and streamline the ability of employers and employees to determine their conditions of employment with appropriate safeguards in place.

That is where the letter concludes. I have also received a letter from Mr Lachlan Gosse, Chairman of the Industrial

Association of the South Australian Farmers Federation. I do not intend to read all of that letter but I will quote one or two excerpts:

> The South Australian Farmers Federation has long believed that the workplace agreement process needed to be made available to a broader range of employers. We also support the Government's desire to retain strong linkages with the Federal legislation and provide greater flexibility for employers and employees.
>
> We particularly welcome the fair and reasonable proposals contained in the Bill supporting employment growth. There is no doubt that the current unfair dismissal arrangements are a direct and active disincentive to increased employment in South Australia which the Bill will address.

In conclusion, Mr Gosse says:

> There is no doubt that unemployment remains a key issue for South Australia. This is particularly so for rural and remote communities. It is our view that the provisions contained in the Government's Workplace Relations Bill will provide a strong foundation for employment growth.

That is the last of the excerpts I wish to quote from the letter from the Industrial Association of the South Australian Farmers Federation. It is important to note that the Bill will give employees and employers greater flexibility in developing agreements on pay and conditions that better meet the individual needs of businesses and employees. Employees will be guaranteed their minimum ordinary rate of pay plus core conditions protected by legislation, such as annual leave, long service leave, sick leave, parental leave and bereavement leave. I have pleasure in supporting this legislation.

The Hon. M.J. ELLIOTT: I rise to oppose the second reading of this Bill. I am not sure whether I am surprised or disappointed that the Government has not decided to let this Bill fall off the Notice Paper at the end of the session. There is a danger of the Bill becoming the issue rather than matters which the Government claims it is seeking to address becoming the issue. This would be the most extreme legislation I have seen in the Parliament in the 13½ years that I have been here. It is very close to evil in my view, and the people who promote this Bill are either terminally evil or terminally stupid in the path that they are following.

The Hon. R.R. Roberts: Or both.

The Hon. M.J. ELLIOTT: Both is a possibility. That is what we have with this piece of legislation. Australia is a place that I am proud to call home. It is a society that I have been very fortunate to have been born into and raised within. It is a society of the fair go. I do not know of a better place than Australia. There are some warning signs—and this legislation is one of them—that some people do not want to keep it that way. There are some people who believe in the survival of the fittest, as they might see it—social Darwinism. They want to take us down a track to be like some other societies—like the American society, which has the most enormous wealth and the most enormous poverty. America is a country which imprisons more of its people than does anywhere else, the place where to get any health assistance you have to have an income of half the poverty level before you are entitled to anything that approximates with our Medicare.

That is the sort of society some people are dragging us towards; and that is the sort of society that this Bill is taking us towards as well. It is a piece of legislation that is biased towards one segment of the community. Industrial relations is a terribly difficult area in which to work—there is no question about that. It is an area that divides this Parliament and members of this Parliament more than anything else, and it is a great pity that it does. We have to have a piece of legislation for industrial relations that works fairly for everybody. I do not believe that that is what is being offered in the legislation before us.

I take just one issue from the legislation: the question of unfair dismissal. I do not dispute that the unfair dismissal process is not working well for people at present. I do not dispute that some employers have had some bad experiences with the unfair dismissal process, but that does not justify taking away the right of an unfair dismissal claim from a significant section of the work force, as this legislation does. There is usually more than one solution to a problem. The solution we are being offered here will work for only one side of the industrial argument. It is a solution that will work for employers because it simply takes away the right of an unfair dismissal claim from one section of the work force.

Some employers who seek a solution will look at this and say, 'Well, look, it solves my problem.' To them I say, 'Do you care about the sort of society we live in; are you prepared to look at other solutions?' The argument to me is not about whether or not we should seek further refinement in this area and whether or not it can work better. The question is whether what the Government is offering here is fair and reasonable. I believe it is not, because in fact it looks after only one side of the argument. It looks after only one of the two groups involved in the debate. We have the employer and the employee, and it is reasonable that we seek to find a solution which is fair and reasonable to both.

This issue is one that the Government in fact attempted to first address when we had a total rewrite of the industrial relations legislation some four and a half years ago now. Twice since it has endeavoured to change it by way of regulation. It has been rejected on each occasion, yet it does not even have the brain power to say that has proven not to be acceptable in the Parliament and perhaps we will look at something else. If arguments about fairness do not work, you would think eventually that something would get through the thick bone coating around their brain that might have said, 'Well, the Parliament will not accept it; perhaps we do need to look at something else.' If there was no compassion, at least you would think there would be some commonsense. It appears there is neither compassion nor commonsense in the people responsible for this piece of legislation.

If we look at unfair dismissal, it is probably fair to say that the difficulties which are encountered are like those you see in so many systems: when you end up in a court and the lawyers start playing the games, the process can become extremely protracted. I am surprised that the Government has not said, 'Is there a way of examining the process?' I suppose I could go back a step further: 'Is there a process by which we might examine the process?' Indeed there is.

This Parliament had a similar problem in relation to workers' compensation in terms of disputes under the Workers' Compensation Act. People on both sides of the industrial debate, representatives of employers and employees, both conceded that the process was not working in the then Workers' Compensation Tribunal. It took a long time, it was very legalistic and very expensive and, of course, justice delayed was justice denied. There seemed to be no winners out of the system except the lawyers. Rather than having the right to be represented, it was the right to represent that seemed to be very much operational.

The way that was resolved eventually was that the Government arranged for meetings which involved representatives of Liberal, Labor and Democrat, representatives of the

Employers Chamber and representatives of the UTLC who sat around the table. After a series of meetings where I suppose some general principles were agreed to, the representatives of the UTLC and the Employers Chamber went away, worked out the fine detail and came back with a proposition which, with only limited further fine tuning, came back into the Parliament and was passed. I think it would be fair to say that a little more fine tuning could happen with that system, but it has worked extremely well.

While some people have complaints about the workers' compensation system to this day, I am not hearing many complaints about that particular part of the workers' compensation system. I do believe it has worked fairly well on the whole, except where lawyers have started playing their games in the conciliation and arbitration process. Unfortunately, the conciliators and arbitrators do not appear to be working by the rules of the court, rules which ensured that the parties themselves would be present, not just their representatives, so they could not then make the claim, 'Sorry, I have to go back and seek further advice.' On the whole, it has worked extremely well, to the extent that people from other States as well as from two Provinces of Canada have come over to South Australia to look at it.

I ask the question of the Government in relation to unfair dismissals: why has it not endeavoured to run a similar process in seeking to find a resolution to problems relating to that matter? The option is open, but the Government has simply decided not to do it. It has decided to adopt legislation which, as I see it, is unfair and which has already been rejected in Bill form or regulation form on at least three occasions that I can remember. I do not know whether the Government is simply looking for confrontation, whether it is a political tactic (and, if it is, it is a strange one), or whether something else is driving it.

I have also received submissions from a very wide range of people. I have had submissions from some employer groups, most of them in the last week or two, so I presume that the Minister has been around saying, 'For goodness' sake, will you write a letter saying that you support this?' because that is the way these things tend to work, so they dutifully sat down and wrote that they support the Bill. However, I wonder how many of them have read it and understand it. There were not a lot of letters but, at the end of the day, I am persuaded not by the number of letters but by the logic within them. Basically, they have written a letter saying, 'We like the Bill; please pass it.' Compelling stuff!

I telephoned a number of people who wrote to me and, on one occasion, I found out that one Chief Executive who wrote to me was not asked to do so by the organisation's board but had done so of his own volition. A member will probably read that letter in this place and say that that is what that organisation thinks. However, I know that the organisation does not think that because the Chief Executive wrote it without being instructed to do so.

The Hon. Sandra Kanck: Are you going to tell us who?

The Hon. M.J. ELLIOTT: No, because if I name the organisation there are some internal things on which I do not want to rock the boat. That is the way these things work. Frankly, the bureaucrats in some of these employer organisations are more right wing and more conservative than their masters.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: Yes, I think that they try to outdo the people whom they represent. They have to be more extreme to prove their credentials. Some of the things coming out of the Employers' Chamber mortify me. I have very good relations with many members of the Employers' Chamber, and I have discussed these issues with many employers. I think that they are stunned by what the people who work for them, effectively, say from time to time. The Employers' Chamber, which claims to be non-political partisan, has its own credibility on the line as far as I am concerned, and I made that point when I met recently with the board of the Employers' Chamber and with key individuals—both bureaucrats and key employers within the organisation.

When the Bill was introduced, they said that they were not consulted. Early on, they made some observations about having grave doubts about certain aspects of the Bill, but lately they have followed the Party line and now say that the Bill must be passed. It is not a much better performance than they gave with the electricity legislation, when privately they were saying that they were extremely concerned, and still are, about the energy area. They are very concerned that electricity prices might rise, but politically and publicly they toe the Party line. Their own credibility is on the line while they continue to perform in that way.

If they want to be treated seriously, they need to learn that, if they do have concerns, they should damn well say so publicly and not just repeatedly follow the line, which is the Liberal Party line, when they often say different things privately. I know that the Hon. Nick Xenophon has had similar experiences with the energy legislation, and I have come across it in relation to this Bill when talking with various people. Publicly, they say the sort of things and write the sort of letters that get read into this place and so create an impression, which is a misleading one, as far as I am concerned, about what employers are thinking.

As I have said, I have no doubt that there are employers who are seriously concerned about some issues which this Bill purports to solve. I have no doubts about that, but I believe that they would be prepared to look at other solutions to those issues. With unfair dismissal, as I have suggested, we can look at the way the process works. I certainly think we should give conciliation and arbitration more teeth, as we have done with workers' compensation. At the end of the day, I would argue that the final solution is that we should, in the first instance, get the key players in the industrial argument around the table and seek to work our way through the situation.

I do not know why we do not look at a problem and try to turn it into an opportunity. One of the problems with small business is that many people are good at what their business does. They are good at cake decorating, plumbing or something else but, in terms of industrial relations and various other management matters, they are not so good. That is why two-thirds of small businesses fail in the first two or three years. People are often good at whatever they do but they are just not good at running the business. One thing that many of them are not good at is the industrial relations in their own workplace. This Bill makes it easy for them. They employ someone and, if there is a problem, they can just get rid of them. But what is the cause of the problem? Why does this not become an opportunity rather than a threat? Why do we not have a more formalised process of probation, where an employee comes on board and at regular periods gets a report card where the employer comments on the employee's performance, on the positives and negatives.

If they identify a weakness, it is a matter that can be commented on at a later stage and if, over a period, they simply have not fixed something of significance, I would

have thought it would give grounds in any court that dismissal was reasonable. That sort of semi formalisation does not have to include huge amounts of paper work, but it would not only make things easier in terms of unfair dismissal claims but could be of benefit to the employer and employee because it could also be seen as a training adjunct. It is where an employee is being told where they need to fix things up and where they are going well. They would be told what is positive. In fact, I have more detailed ideas about that but, again, I am not seeking to offer solutions here.

I believe there are directions in which we can go. It would be of relief to the employer by perhaps offering other positives. We should be encouraging all workplaces to look for training opportunities and, although that is a fairly limited form of training assistance, at least some sort of feedback mechanism between employer and employee which identifies areas where more work can be done can be a great positive. It would be an even greater positive if it gives them detail about good things done in the workplace as well.

The Government also is looking to introduce individual agreements. Superficially, an agreement sounds attractive when it says, 'Let the boss and the worker work out what works best for both of them and we have a happy world.' Anyone who proposes that is either a blithering idiot to think that that is going to work fairly, is simply deluding themselves or is just being evil. There is no way known that an individual agreement process will not be abused regularly. The frightening thing is that, if you are working in an industry where a certain percentage of the employers (I will not speculate about the number) start abusing the individual agreement process and, as a consequence, they become more competitive, an employer trying to compete is under enormous pressure to start striking the same sort of individual agreements. It is a lowest common denominator approach, and it creates a downward pressure on conditions. Theoretically, the legislation says there are protections: practically, anybody who lives in the real world will tell you that there are no protections at all. I do not believe that there is any process which gives individual agreements any opportunity to provide the protection available under other processes.

The Government introduced—and with Democrat support—enterprise agreements. We had no problems with those agreements and we supported them; in fact, after the legislation was passed the Government said how wonderful they were, how pleased it was with them and how they were a great advance. Frankly, I do not think the Government has optimised and maximised the positives it could have got from enterprise agreements. It is probably fair to say that some people are a bit off put by whatever it is they have to go through. For many, they do not know what it is, but they have a feeling that there will be an awful lot of work trying to sort out an enterprise agreement. Certainly, they do not want to find themselves before the Enterprise Commissioner going through the very fine detail of the process.

I believe that the Government really missed an opportunity to make enterprise agreements work better, but it is not too late. I do not understand, for instance, why the Government has not produced, if you like, a facilitation team. In relation to this Bill the Government proposed to spend a lot of money setting up this totally new process outside the Industrial Commission to drive the individual agreements. It was going to cost the Government a heap of money. The Government should have devoted that money—and can devote that money—to getting the enterprise agreement process to work a lot better. Enterprise agreements can allow for workplace flexibility in terms of individuals. Enterprise agreements have been struck that do exactly that, but they are not secret, one on one agreements where the power imbalance between the two people means that abuse is inevitable. I do not mean inevitable in every case but inevitable to a significant number of people.

The Government was told a long time ago that the Democrats would not agree to individual agreements, but, again, the Government has not sought to explore what the other possibilities might be. There is no argument about whether or not it is possible to achieve greater workplace flexibility or about whether or not employers and employees might not like to talk about how the place might work better for all of them: the only argument is about whether or not it will be a one on one process, that is, where it is a secret deal done between those two players. Why would anybody ever want that to be a secret deal? The only reason I can think of has nothing to do with protecting privacy but everything to do with protecting and enabling shonky deals.

In my view, for the most part this Bill is unnecessary; it is underhanded; it is unfair. We do have good legislation at present. I am not disputing for a moment that it could not be further finetuned, but we are not talking about finetuning in terms of what is happening here. There is already the capacity to negotiate individual workplace agreements as long as they conform to the requirements of the award. It is worth noting—and it was in the *Advertiser* on 23 June—that the Australian Bureau of Statistics figures show that South Australia has less workplace relation difficulties than most other States in the nation. The Government says that it aims to promote employer and employee partnership in producing workplace agreements and mediating difficulties. The Government claims that it aims to make the system more flexible and efficient by rationalising hindrances associated with the current situation. It claims that it aims to improve the overall and youth employment situation through the maintenance of lower and youth wages. There are serious doubts that these aims can be met. With regard to this partnership between employer and employee, the system is likely to become more adversarial and legalistic. There is some agreement that the restrictions on unions and the Employee Ombudsman, as well as the $100 minimum fee, create an adversarial 'all or nothing context' which will result in more not less legal action.

Employee protections are superficial. The proposed 'cooling off' and 'coercion' clauses are practically unrealistic—as I said, they just do not come from the real world—and, without the independent assistance of the Employee Ombudsman, truly equitable partnerships will be difficult to secure. It is a matter of education not legislation. If the Government was genuine about employer concerns over unfair dismissal claims preventing new employer/employee partnerships, then surely it should be undertaking an education program to inform them of the strengths of the current situation.

In terms of the Government's aims to make the system more flexible and efficient by rationalising hindrances, the only additional flexibility will be felt by employers, and at least one group of South Australian academics, headed by Professor Andrew Stewart, has argued that these changes will result in increased costs, complexity and bureaucracy. The greatest incentives to taking on new employees are factors other than unfair dismissal. Any number of surveys have been done, including the Australian Workplace Industrial Relations Survey, that suggest that unfair dismissal is a low priority. I note that the *Yellow Pages Small Business Index* (February

1999) reports that, by far, the greatest disincentive for small business was lack of available work; in fact, as I recall, unfair dismissal comes in at about eighth or ninth. Of course, you have surveys such as the one done by the South Australian Employers Chamber. Whom did it survey? It surveyed people who had just been in the court on an unfair dismissal case. That was its sample.

The Hon. T. Crothers: The fact that you have a mechanism for unfair dismissals prevents strikes.

The Hon. M.J. ELLIOTT: That's right. What a remarkable sample to take. The sample of employers was those people who had been in unfair dismissal cases. Even among those, a significant number did not say that they had been put off employing. I repeat again: I have not said that unfair dismissal does not need further review and refinement, but that is not what is being offered here. Certainly, the priority has been put on it by the Government. The claims about its importance are grossly exaggerated, and this is nothing more than raw politics at work. Unions should not be undermined. The collaboration of employers and employees—and, in many workplaces, employees represented by unions—results in greater productivity, and health and safety. Surely, to reach the aims of this package, the State Government should be looking to facilitate better relationships between employers and unions.

The Government also talked about youth unemployment and used that as justification for a push for youth wages. I put on the record again the Democrats do not and will not support youth wages. We have no problems with the concept of a genuine training wage which relates to a person coming into a job where they need training. I do not care how old they are. If a middle aged person is being denied a job because they cannot get training, that is a problem. I am sure that plenty of middle aged people in a genuine training situation would take a lower wage while they were being trained so that they could get a job. Why are the middle aged unemployed being disadvantaged in this way? Why talk just about youth? It is simply a matter of your being able to walk into some jobs and, within a day or two, you are full steam ahead, or you are that close to full steam ahead it does not matter. That is true of many jobs.

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: That's right.

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: The question has to be about whether or not we have proposals for training wages or whether it is simply a way of getting cheap employees. As far as I am concerned, it is a way of getting cheap employees, and the Democrats will not support that. What is the aim of this Bill? I would argue that it is the marginalisation of the Industrial Relations Commission. The State Government is trying to marginalise the IRC by forming the Workplace Agreement Authority and encouraging mediation through mediators approved by the Minister.

The Democrats will not have a bar of having two systems—an Industrial Relations Commission and then a separate system. As far as we are concerned, any change must happen within a single system. Both could be seen as a means to silence the independent voice of the IRC. It is not clear why a detailed examination of the IRC could not be conducted and the body's procedures altered. I am concerned by the way negotiations are being taken outside the existing system.

In relation to the weakening of employee protection, through the creation of the Workplace Agreement Authority the State Government is shifting from the IRC focus of being satisfied that approval criteria are being met to the WAA's having no reason to believe that they are not being met. The Government is undermining hard won current award conditions. The State Government is working to undermine the current award agreements by giving individual agreements priority over collective agreements and putting an 18 month time limit on award conditions.

The Government is also seeking to restrict the Employee Ombudsman. The Employee Ombudsman has been described as 'the union representative for non-union members'. Obviously, the independent voice of the EO could cause difficulties for the State Government's agenda—so they gagged him by cutting him out.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: It is out to hamper the unions. Just as the intervention of the Employee Ombudsman is undesirable, so is that of the unions. Through this legislation, the State Government is attempting to significantly weaken the ability of union and employee advocates to represent the interests of workers. It does so by making union membership more cumbersome, restricting union access to workplaces and lowering a veil of secrecy over individual agreements. If there have been problems with the Employee Ombudsman or unions, the Democrats have not been made aware of them and the onus is on the Government to prove that there are problems. No evidence, not a scrap of evidence, has been brought into this place to show that a problem is being fixed.

During the previous round of deliberations, we were prepared to accept some changes in relation to the way unions function; in particular, we supported moves to get rid of closed shops. That was a fair thing to ensure that there was genuine choice. But, this Government is not fair dinkum about that sort of stuff. Closed shops still work in this State. As far as I can see, Woolworths operates as a closed shop because everyone who is employed there is immediately joined up to the union. The Government will not break up that cosy deal because it is too close to Woolworths. So, it is prepared to allow these closed shops to operate in some circumstances whilst attacking them in others.

Where it can be shown that there are abuses by unions, the Democrats are prepared to look at them—as we are prepared to look at abuses by anyone. But these changes are not about tackling abuse. These changes are about enabling abuse by employers and not allowing legitimate protection for employees. I will also argue that the Government is pushing its own ideology. The State Government is working on the dubious assumption that by pushing wages down the economy will strengthen. In fact, it may push down the ability of employees to spend on items such as manufacturing goods—a central pillar of the South Australian economy.

It would seem that the gap between what the Government says it is doing and what it appears to be doing suggests that this is an underhand move heavily weighted in the interests of one side of the industrial argument—the employers. This Bill is unfair. It removes major safeguards for employees by restricting the Employee Ombudsman's investigative role and hampering the unions. The Bill undermines major safeguards for workers. Individual agreements put the employee at a disadvantage. Individuals can secure all they might need within enterprise agreements, and I see no way to address the way individual agreements will undermine the rights of many employees.

Rural employees have less protection due to the lower union presence in rural areas. These employees rely heavily

on the award and the Employee Ombudsman, both of which are undermined in this Bill. While employers can select their representative in negotiations, employees must represent themselves. Here lies a significant inequity as often employees are less informed about workplace issues, less experienced in mediation skills and, in the context of high unemployment, will feel significant pressure to accept less than satisfactory agreements.

This Bill revokes the rights of a significant section of our workplace. There may be minor problems with the current system such as the manner in which rising court costs see out of court settlements, but the Government should be talking about how we can handle unfair dismissals more effectively. Instead, in many cases, it proposes to remove them. New employees are not protected. Ineligibility of employees to call on unfair dismissal laws of up to 12 months begs the question: when is an employee not an employee? Someone can work like a full employee, be paid like a full employee, but not have the rights of a full employee. In relation to this question of no right of unfair dismissal in the first 12 months, in the small workplace sexual harassment is not an uncommon occurrence, unfortunately, and frankly, in the absence of willing witnesses—and that is also difficult in a very small workplace—a remedy under legislation which revolves around sexual harassment is not there.

There have been any number of cases where after sexual harassment has occurred the employer says, 'Right! You're gone; you're sacked.' At least there was a remedy for that because, if the boss could not show good reason for laying off the employee—the boss is hardly going to say, 'She wouldn't come across'—there was at least some recourse for an employee. I am afraid that is the real world and it occurs far too often and, being able to have a simple unfair dismissal with no grounds whatsoever in the first 12 months, is an invitation for higher levels of sexual harassment in the workplace.

Young employees are not protected. It is a situation similar to that above for young people, except of course they will not be paid as a full employee. The above two conditions could encourage unscrupulous employers to participate in swift turnover of young employees. So, you bring them on, pay them a youth wage and shift them out. That is what Woolworths and Coles have been doing for years. A great little lurk, that one! It is a pity someone was not protecting them. Significant social costs are associated with this Bill not only through the loss of genuine family times such as public holidays but in the desired decline in working conditions. There is the loss of protection for employees, and the indirect social cost of increased stress and financial pressure on many South Australian families could be immense.

The $100 lodging fee is intimidating. It is claimed that it is unfair on employers that current procedures are intimidating, but to younger and less affluent newly dismissed employees is it not also intimidating to impose a $100 application fee? This Bill is unfair. Possibly the only article that the Democrats could support could be the restrictions on the employment of children under the age of 14. Of course, a private member's Bill in the other place seeks to remedy that and that alone, but the Government is not big enough to simply let that pass through. Instead, it plays stupid Party politics when it knows that there would be support from all sides of this Parliament for addressing the 14-year-old lolly sellers. It should have gone through this place a long time ago.

In summary, it is important that this Bill be placed in a wider historical context—a history of gains made by unions and employee advocates. There have been many gains, and we have to remember history so that we do not repeat the mistakes, yet we are winding back. I am not sure whether we are going back decades. I reckon we are just about going back to the last century. We are being wound back—

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: Whilst there have been times when employers told stories about the dreadful things that unions did—and there is no doubt that, from time to time, unions have done some appalling things and, if they need to be brought into line that is fine, too—but unions—

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: Absolutely. Unions came into effect for a very good reason. They came into effect because significant abuse was happening in the workplace and eventually our society made a judgment that we were going to be a fair society and we accepted that unions had a place. I note the earlier speech of the Hon. Terry Roberts. I, too, thought that we were making real progress in the 1970s as we started looking at industrial democracy and at a genuine relationship which was based not on power but on mutual trust and understanding between employers and employees. That is being ditched and, instead, quite a different approach is now being adopted.

When one looks at the bigger picture, our concerns about this Bill become all the clearer. Four years ago, I think we successfully passed a good and fair piece of industrial relations legislation. There is no doubt that unions did not like some parts of it—as, indeed, employer associations did not like some parts of it. However, I think that is to be expected. If one has something that is balanced, it is fair to say that both sides would think that they could have got some more. I believe that we did get balanced legislation. I am not suggesting that it was perfect, but it is more in the line of fine tuning that we should have been looking for.

While there may remain some difficulties with respect to this legislation, they are minor. I believe that most of them can be fixed administratively. There is no need to remove unfair dismissal altogether and, in the process, revoke the rights of significant sections of our work force. The processes of agreement development and dispute negotiation place the individual at a clear disadvantage, and we can see no way in which to rectify this imbalance. Wages must be based on skill, not age. While we would be willing to consider training wages, we reject any link with age.

If there have been problems with the Employee Ombudsman and the unions in the workplace, the Democrats are unaware of them, and the Government has not demonstrated any. In this context, the severe restrictions on both parties is unwarranted. The Democrats are always willing to discuss new ideas that will improve the situation of all—and I stress 'all'—South Australians, but we see in this Bill nothing new which is constructive.

We acknowledge that the establishment of a body to help produce enterprise agreements and to advise both employers and employees could be a useful development that would avoid later legal problems. This could be done administratively or it could even be done within the legislation, but it does not need to undermine the powers of the Industrial Relations Commission. Despite allusions to this aim on the part of this Bill, it does no such thing. It is unnecessary, it is underhanded and it is unfair. It is a Bill that significantly undermines the

gains of employee advocates which have been hard won over many years.

The Australian Democrats cannot support this Bill, because it goes against our basic principle to be even-handed to employer and employee. I again ask the Minister to let this Bill fall off the Notice Paper at the end of this session (there is only a little over a week and a half to go) and then enter into serious discussions with all the players in the industrial argument during the long break. If there are problems (and I am prepared to acknowledge that there are problems, although I believe that they are over-stated), they are capable of being addressed in quite different ways from those which are currently before us. This looks more like Mr Reith and his minions, who just cannot admit that they got it wrong, or who really are as evil and as stupid as I fear: I am not quite sure which it is. But this is not the way that South Australians want to go. It is not contributing to the sort of society in which we are proud to live, and I and the Democrats will not be a part of this sort of legislation.

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

STATUTES AMENDMENT (TRUSTS) BILL

Adjourned debate on second reading.

(Continued from 8 July. Page 1660.)

The Hon. A.J. REDFORD: This is an important Bill, which makes significant changes to the Trustee Act 1936 and the Trustee Companies Act 1988, particularly in relation to the issue of trustee accountability. Since introducing the Bill the Attorney-General has engaged in wide ranging consultation. I am grateful to the Attorney that last Wednesday my office received some proposed amendments which I understand he will move in the Committee stage as a consequence of that consultation. I must say that I did not see them until the Sunday after my return from interstate, and I have not had the opportunity to consider the proposed amendments in any detail, but such is the life of a backbencher. I must congratulate the Attorney-General on tackling these issues in a bold and innovative way. Judging by the public reaction to this Bill in my office—which I must say has been absolutely zero—I must conclude that the Attorney's initiatives and the manner with which he has dealt with this issue have received broad support from those with whom the Attorney-General has consulted and those who have considered the Bill.

The purpose of the Bill is first to broaden the class of persons who can apply to the Supreme Court for directions in relation to the conduct of a particular charitable or other sort of trust and the change of trustee; secondly, to make information more available to a broader class of people for the purpose of extending scrutiny of both the people and the performance of a particular trust. I understand that orders can be made on the basis of what is in the best interests of beneficiaries rather than attempting to find some particular fault or misconduct on the part of trustees in relation to their management of funds on behalf of beneficiaries and charitable purposes. Indeed, it also addresses the issue of charging of fees by trustee companies *vis-a-vis* the investment of funds in common funds, particularly with a view to avoiding double dipping on their part. It would appear to me that the common law would prevent such actions on the part of a trustee company, that is, investing for the purpose of maximising their commissions as opposed to maximising benefits to beneficiaries, but to incorporate it in a legislative fashion as the Attorney has done is welcome.

I hope I am not pre-empting what the Attorney has to say, but I understand that he proposes to move a number of amendments to clauses 5, 6, 9 and 12 and introduce a new clause 12A. I would like to make some general comments about some of those amendments. First, I understand he proposes to amend clause 6 so as to make abundantly clear that a court can make any order which it considers necessary or desirable in addition to or instead of the principal orders sought. In other words, during the course of argument between parties who might be interested in the conduct of a trust, the court can, rather than just accept the applicants' orders, impose its will, having regard to all the evidence. I must say that that is a sensible approach.

The second suggested amendment to the Bill is to enable fees to be deducted in relation to the capital growth of funds, provided that there is an obligation to disclose on request the method of apportionment of the fee as between income and capital, and I think that is to be welcomed. So long as these approaches are transparent and people interested in the conduct of the trust can see what is happening, then I think that trustees ought to be allowed to get on and deal with the funds in the manner they see fit having regard to their obligations that they must act prudently and to the standards of a prudent trustee.

Another amendment that the Attorney has indicated he will be moving is to allow, in some cases, the charging for additional work over and above the management of money that might be invested in the common fund; in other words, an exception to the rule of double dipping. Again, I accept the explanation that has been provided to me by the Attorney. I think that perhaps some work ought to be done in relation to benchmarking the performance of trustees of charitable trusts. On many occasions trustees of charitable trusts are not professionals in terms of the management of money and are appointed for their skills in other areas.

I am not suggesting that the Attorney has to do anything (it may well come from the private sector or from various other agencies associated with the charitable sector), but some form of benchmarking in relation to investment strategies and performance might assist trustees, particularly those of a non-professional type in undertaking their work to a standard required, that is, that of a prudent trustee. I believe that might go some way towards, first, ensuring that they do invest in a proper way and, secondly, giving them some confidence that the strategies they are adopting in terms of investment are consistent for the rest of the industry.

Another amendment that the Attorney suggested is to change the test applicable to a trustee who proposes to invest monies into a common fund to a standard of a prudent trustee; and further that they be required to provide reasons for investing money in a certain fashion on request. Again, I support that amendment. I have not had the opportunity to look at the precise wording of the amendment to clause 10, but I would be interested to ask the Attorney, at the appropriate stage during Committee, what he believes would be sufficient reasons to enable someone who requested those reasons to make a proper analysis and judgment of the reasonableness of the conduct of the trustee.

One would hope that it is more than investing the money in this particular way because 'we thought it was in the best interests of the trust'. I believe that the reasons ought to be a little more extensive than that. Whether or not it is appropriate at this stage to be prescriptive is another question, and

perhaps that is something that could be dealt with later as we review how these important reforms develop. I would be interested to hear the Attorney-General's comments on that issue at this stage.

I have also considered the submission provided to the Attorney and to other members by the Law Society of South Australia. The submission has been signed by the President of the Law Society, Lindy Powell QC. It is a rather technical statement in relation to some of the issues that this Bill raises. However, there is an extensive explanation about some difficulties associated with the procedure that might or might not be adopted in relation to the amendments to section 60 of the Trustee Act or, in so far as this Bill is concerned, clause 7. It contains a lengthy statement about the appropriate procedure to be adopted. I will not bore members at this late stage with the various legal issues that have been raised. I would be interested, though, to hear from the Attorney-General about whether there is any merit in those statements and, in particular, whether we have addressed the issue of ensuring that applications to the court are as simple and straight forward as they can be in matters such as this.

The final point I make is basically to do with some of the experiences I have had in relation to this area and I use for illustration purposes the position of the Apex Foundation. For members who are interested, I point out that the Apex Foundation is a trustee company limited by guarantee, which was established by the Association of Apex Clubs to administer those funds which they might raise and which are raised for a particular charity or charitable purpose. I would not like to see at a whim in those circumstances beneficiaries being able simply to change a trustee because they did not like what the trustee was doing at a given point in time. I say that because it may well be that the Apex Foundation (and I use the example for illustrative purposes) on a particular occasion in a particular year might not perform to the highest possible level.

I would not like to see courts ordering that trustees be changed willy-nilly, which might have the effect of destroying the reputation of organisations which have had a long and proud history. Most organisations, even State Governments or State administrations, have their ups and downs, even good ones, and a precipitous order might destroy them. I would hope that the courts would exercise care and ensure when they make decisions that they did not act precipitously, taking into account long-term performance both historically and in the future of particular trustee companies and ensuring that the reputations of people and some of these trustee companies were not damaged unnecessarily.

That is not to say that that should obviate against their duty to act as a prudent trustee and to the best of their ability, ensuring that they act to the highest of standards. I flag that not for any comment in relation to the terms of the Bill but in the confident hope that the courts will deal with these matters carefully in a considered fashion, will ensure that beneficiaries are well and properly looked after and at the same time will ensure that the reputations of the many companies and trustees that operate in this area, which are of the highest standard, do not unnecessarily become sullied by any precipitous order on the part of the courts. I do not believe that will happen: I say that just so that the few who might read this contribution take that into account. I commend the Bill and congratulate the Attorney.

The Hon. K.T. GRIFFIN: I thank honourable members for their indications of support for the Bill. At the time of introducing the Bill I indicated that comment would be sought and was welcome from all interested parties. I am pleased to say that the Government has received considerable comment on the Bill, both from industry and charitable bodies, which has been duly taken into account. The Government will move some amendments in light of that comment but adheres to the substance of the Bill.

The Leader of the Opposition made reference to correspondence she has received from the Law Society, as did the Hon. Mr Redford. The Leader of the Opposition asked whether there has been consultation with the Law Society. I confirm that the society was invited to comment on the Bill and has written to the Government about it. The society has raised a number of points which have been taken into account with the result that some of them will be reflected in the Government's amendments.

In particular, the Government accepts the society's suggestion that the requirement in clause 5 of the Bill that advice tendered to a trustee be the advice of an expert should be removed. It does not, however, see a need to further define who are charitable trustees and the scope of the advice which must be taken into account. The provision is intended to open up the possibility of advice and information from a broad range of sources, given that the trustee is bound only to take it into consideration and not to do as it says.

As to the society's suggestion that the courts be able to provide for a new trustee to charge for services, the Government agrees and an amendment will be moved. The Government also notes the society's view that additional work may be involved in the administration of some charitable trusts over and above merely managing the fund and sending out a cheque. That point has also been pressed by representatives of trustee companies and will be addressed in amendments. Where additional work is genuinely required, it should be remunerated. The object of the Bill is to prevent the charging of fees if they are not earned.

The society also raises and discusses the charitable trust procedure under section 60 of the Trustee Act which it considers to be an historical anomaly right for abolition. This Bill, however, is not a general review of the Trustee Act and the Government has not taken up the suggestion at this stage. It appears that in practice applicants commonly use the alternative procedure of a summons supported by affidavit which appears to cause no difficulties.

The Hon. Mr Gilfillan made reference to correspondence received from the Anglican Archbishop of Adelaide supporting the Bill, and I confirm that the Bill has also been welcomed by other charitable bodies who recognise from experience the problems it seeks to address. The Hon. Mr Gilfillan also asked whether it would be desirable to have a charities commissioner, as exists in the United Kingdom, with a special role in the oversight of charitable trusts. This is a matter to which I gave some thought in formulating this Bill.

While the appointment of an officer with special responsibility for these trusts would be one method of gathering information and increasing accountability, I came to the view that it would be better to address the problem by giving legal standing to those persons with an interest in the charitable purpose and giving them expressed rights to acquire information about the trusts and to make submissions to the trustee. The charities are already on the spot. They know what the needs of the charitable objects may be. In many cases, they have access to professional expertise and they are motivated to see that the charitable purpose is well served.

My view is that this method should be tried first. I have confidence that it will be effective. However, if it should emerge later that further measures are needed, such as requiring the charitable trustee to present financial reports to an appropriate authority (the suggestion of the Law Society), or establishing a public register of charitable trusts, this can be considered.

The Hon. R.D. Lawson raised the question of whether the provisions of the Bill will apply to trusts which have a charitable purpose among other purposes. This is the case. In practice relatively few trusts are established for both purposes, and section 69A deals specifically with the situation where the purposes of a trust are partly charitable and partly non-charitable and invalid. In that case the trust is construed as if it were solely for charitable purposes. Certainly the Bill will have the effect of increasing the scope of court scrutiny over trusts wholly or partly for charitable purposes. However, a court will make the orders provided for in clause 6 only if it is satisfied that such orders are desirable in the interests of persons who are to benefit from the trust or to advance the purposes of the trust.

The honourable member also questioned the use of the term 'take into account' in the context of advice and information. While the amendments proposed will address any concern about the phrase 'take into account', which also appears in section 9 of the Trustee Act, the more general question is whether the scope of the provision is too wide. I have considered this viewpoint but am persuaded that it is desirable to maximise the scope of information and advice which may be supplied to trustees.

This clause is designed to be widely inclusive so that, where money is held on trust for a charitable purpose, the trustees may have the benefit of information and advice relevant to the administration of the trust. In practice, it seems likely that interested parties who wish trustees to adopt some course of action will supply information in the form best calculated to persuade trustees. If they supply information that is of poor quality or little value, they take the risk that it will not influence the trustees.

As to the point the honourable member raised about the wording of the proposed amended section 36(1)(c), this will be addressed in amendments to be moved. One matter which has been raised both by some charities and by industry is the question of whether trustees should be at liberty to take their fees or some portion of them from the capital of the trust. At present, the Trustee Companies Act permits the payment of fees, whether they are income or capital fees, from income only. The rationale for this has been that it is important to preserve the capital of the trust in perpetuity. It would not be proper to allow fees to eat away at the substance of the trust, eventually reducing it to nothing.

However, some charities have expressed concern that the requirement that fees be taken only from income means that the annual income on which the charities rely for their work is much reduced, even while the real value of the capital increases. In effect, the trustee is in competition with the charity for the income of the trust. Trustees have also suggested that they wish to be able to take fees from capital as an all alternative so that more of the trust income could be applied to the charitable purpose.

I have given this matter consideration and have concluded that it should be possible to permit the deduction of fees from capital growth. That is, if the trustee can manage the money in such a way that the real value of the capital increases then the option should be there for fees to be drawn from that source. However, if the real value is static or decreasing then to draw fees from capital would threaten the future viability of the trust and in that case fees must come from income only. This seems to me to represent a reasonable compromise between the interests of present and future beneficiaries of the trust, having regard to the fact that this measure is desired both by charities and trustees. Accordingly, the Government will move an amendment to this effect.

I turn now to the issues raised by the Hon. Mr Redford. The first issue is the benchmarking of the performance of trustees of charitable trusts. That may well be desirable to give better guidance to the beneficiaries, but it is not something that I would suggest that Governments should embark upon. That is something more for the private sector. In fact, the performance of trustees in relation to management of funds is at least monitored by those who watch the finance markets, although I am not sure that it is benchmarked.

The only other issue that the honourable member raised was in respect of his example relating to the Apex Foundation. I acknowledge that it was merely an example. The issue that he raised has been raised by others, that is, is it too easy for a beneficiary or a person with an interest other than a beneficiary to make application and to have the trustee changed? It is my view that that is not the case, that there are several hurdles. The first is the application to the Supreme Court. The second is that the court must apply some criteria which are set out in the Bill. Is it in the interests of the trust, is it in the interests of the beneficiaries? That hurdle must be overcome where the onus is on the applicant rather than the trustee to demonstrate that the trustee has not been performing adequately. It is not just a matter of year-to-year performance in terms of the return on investment.

The other disincentive would be the issue of cost, because there is no prohibition on the court ordering costs against an applicant if the applicant is unsuccessful. So, it is my judgment that this will not create the means by which any person can apply for change of trustee and achieve that objective. There are hurdles in the way, and I think that achieves a proper balance. Again, I thank honourable members for their consideration of the second reading of the Bill.

Bill read a second time.

ADJOURNMENT

At 12.6 a.m. the Council adjourned until Wednesday 28 July at 2.15 p.m.