LEGISLATIVE COUNCIL

Thursday 28 October 1999

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

JOINT PARLIAMENTARY SERVICE COMMITTEE

The PRESIDENT laid on the table the report of the Joint Parliamentary Service Committee 1998-99.

AUDITOR-GENERAL'S REPORT

The PRESIDENT laid on the table the Auditor-General's supplementary reports of 1998-99 on:

1. Electricity business disposal process in South Australia—arrangements for the probity audit and other matters, and some audit applications;

2. Civil proceedings for defamation against ministers of the Crown—payment of damages and costs from public funds; and

3. Intellectual property management.

PAPERS TABLED

The following papers were laid on the table:

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

Reports, 1998-99—

Construction Industry Long Service Leave Board

SA Country Fire Service

South Australia Police.

QUESTION TIME

ALICE SPRINGS TO DARWIN RAILWAY

The Hon. CAROLYN PICKLES (Leader of the Opposition): My question on the Alice Springs to Darwin railway is directed to the Minister for Transport. Given today's meeting involving the Premier, the Prime Minister and the Chief Minister of the Northern Territory regarding the future of the Alice Springs to Darwin rail link, will the minister please advise:

1. Is the state government considering allocating more public funding to the Alice Springs to Darwin rail link and, if so, how much?

2. Will the minister detail from where the extra funding will come?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I suggest that the honourable member direct her question to the Premier in terms of the discussions he has held, and I think that is only right and proper. I said earlier this week, or perhaps it was late last week (and I totally support the Premier in this respect), that the opposition has been entirely unhelpful in terms of taxpayer funds because it has been undermining our case to leverage as high as possible the contribution from the private sector.

CELLULAR TELEPHONES

The Hon. T.G. ROBERTS: I seek leave—

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! I have called the Hon. Mr Roberts.

The Hon. T.G. ROBERTS: —to make a brief explanation before asking the Attorney-General, representing the leader of the Council, a question about the cancer link to cellular telephones.

Leave granted.

The Hon. T.G. ROBERTS: We are all faced with the probabilities and possibilities of harm in connection with using cellular telephones. I know that I could have directed my question to the representative of the minister for health but it would probably have taken a long time to get an answer. An article in the *Financial Review* of 25 October (last Monday) by journalist Stan Beer warns of the cancer link to cellular telephones and reports a number of findings from an investigation into the dangers of using cellular phones. The article states:

> The findings showed that:
> · The rate of brain cancer deaths was higher among hand-held mobile users than those using non-handhelds.
> · The risk of rare tumours on the outside of brain was more than doubled in cell phone users than non-users.
> · Correlation between the occurrence of brain tumours on the right side of the head and use of phones on the right side of the head.
> · The risk of acoustic neuroma, a tumour of the auditory nerve, was 50 per cent higher in people who reported using cell phones for six years or more.
> · The ability of phone antenna radiation to cause genetic damage was definitely positive and followed a dose-responsive relationship.

We have all held these fears since the time the phones were introduced and we were waiting for the jury to come in with a report on which everyone could agree. It appears that that report is now before us. It may be that the Health Commission is the appropriate body to look into the authenticity of the findings and to bring down some recommendations, but I believe that the government should be concerned enough for me to direct the question to the Leader of this Council. My question in relation to cellular phones is: is it possible for the government to look at the problem in relation to cellular phones that is included in the report and try to educate the public and us, if you like, into the dangers of using cellular phones and perhaps recommend a way in which to use cellular phones in a safer manner?

The Hon. K.T. GRIFFIN (Attorney-General): I think most people have concerns about the way in which cellular phones might be used. I notice the honourable member himself has taken the precaution of fixing a headset to his mobile phone. It was only in the past year or so that it finally clicked with me why people were going around like secret service agents with an earpiece and talking to a piece of wire that seemed to disappear into the coat, particularly among males. Then I discovered the reason. I must confess that I have one of these headsets as well, partly because we do not know what the risks are.

There is certainly a lot of publicity about the potential risks and evidence such as that which is referred to in the article in the *Financial Review*, which I read with a great deal of interest. The only problem with the current sort of headset configuration is to know what to do with the piece of cord. As you walk around with the mobile phone with a headset

attached, do you wear the headset? Do you wrap it around the phone? When you are fumbling for it in the car or somewhere, you have to find the earpiece to put in. There is a range of practical difficulties that arise from the current configuration—

The Hon. L.H. Davis interjecting:

The Hon. K.T. GRIFFIN: The person who can come up with an easy to handle headset to deal with those sorts of complications to which I have referred will probably make an absolute fortune. In terms of the honourable member's question about research, I think it is probably better if that were done on a national or even international basis. I am not aware of what is being done at the local level. I think probably it will need to be referred to the Minister for Human Services, but it may also need to be referred to the Minister for Communications at the federal level. As custodian of the mobile phone system and the communications system, he may have some information and even be sponsoring research. I do not know the answers to those questions. I will see whether I can obtain some answers and bring them back.

EMERGENCY SERVICES LEVY

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question on harvesting equipment and the emergency services levy.

Leave granted.

The Hon. R.R. ROBERTS: On about 8 September, while doing some surveying work in the Crystal Brook area, I circulated a document that included a pamphlet that explained to constituents the effects of and how the emergency services levy would work.

The Hon. Diana Laidlaw: Who produced the pamphlet?

The Hon. R.R. ROBERTS: You did. The pamphlet stated that conditionally registered farm equipment would not attract the emergency services levy. I was surprised when I was contacted by a harvesting contractor from the Crystal Brook district who informed me that he had four farm vehicles and had received an account to pay the emergency services levy. I checked again with the pamphlet which said that conditionally registered farm vehicles would not attract the emergency services levy. There were a couple of other complications with respect to the amount of registration my constituent pays and, as we in this parliament are aware, in the past few years, there have been alterations to the insurance and registration procedures for farm equipment. I do not want to go into that but merely note that there is a difference in my constituent's registration conditions and those of traditional farmers.

I then took the advice given to me by the pamphlet and rang the hotline number 1300 366150 and requested some information in respect of the emergency services levy on harvesters used for commercial harvesting. I was a bit concerned to be advised that politicians should put their requests in writing to the minister. Having revealed myself, I took that on board, but I also asked for the emergency services levy calculation on a commercial harvester. To my surprise I was told that there is no figure for a harvester.

As a contract harvester from time to time, my constituent is concerned because other farmers with exactly the same type of equipment engage in contract harvesting work. As it is a commercial operation for my constituent, all these costs mount up and his viability starts to come into question. My questions are:

1. Can the minister provide a tabulation of all the circumstances for contract harvesting vehicles and farm vehicles with respect to the registration and emergency services calculation?

2. Can she explain why the same equipment used by a contract harvester to do farm work attracts the emergency services levy when farmers with exactly the same equipment who engage in exactly the same operation are exempt from the emergency services levy?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I would like more details about the circumstances of the honourable member's constituent but it would seem to me from the explanation in the first instance that the contract harvester is competing for work and is doing work beyond the farm gate or the farmer's property, and therefore in those circumstances I would argue that it is reasonable in terms of competition that he pay the full costs. However, it was an initiative of this government to permit conditionally registered vehicles and it has been decided that such vehicles will not be levied. The levy for all mobile property is $32.

I will be pleased to refer the honourable member's question to the Minister for Emergency Services in terms of the tabulations and graphs that the honourable member has sought, but I think that he could give me some more details following question time about the exact circumstances. Perhaps the honourable member could give me the notice that his constituent has received in terms of the four harvesters. I will be happy to seek answers to those questions.

ROAD RULES

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Transport a question about the national road rules.

Leave granted.

The Hon. CAROLINE SCHAEFER: On 1 December almost 40 changes will be made to road laws in South Australia to comply with national standard laws. Elizabeth King, Executive Officer for Injury Protection SA, claims that at least one of these, which will allow motorists to turn left on a red light, will endanger lives. Many motorists, it seems, are unaware of the imminent changes and, if this is the case, Ms King's prediction could be quite correct. My questions are:

1. Can the minister explain the lack of knowledge and what will be done to educate the public between now and 1 December?

2. What research has been done as to the increased risk to pedestrians if cars can turn on a red light?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): Pedestrian injury and death on our roads has been increasing as a proportion of all road injury and death in recent times. I do not have exact research to hand, but I will be able to refer this matter for the honourable member. In terms of the road rule change to which she refers, Ms King is unduly alarmed in terms of the application of that road rule in South Australia.

The road rule specifically states that a vehicle must stop at a stop sign, exactly as applies now; it must give way to pedestrians and to all other vehicles, exactly as is the practice now; and only in limited circumstances would the rule be applied. Only where notices or signs have been installed would this law apply. It would apply at an intersection and lights where there is a major and a minor road, where the

traffic on the minor road could turn left with care at certain times, therefore not having to wait for the green light and, if all is clear from the left, not having to hold up all the traffic using the major road.

There are many instances that we would all know of where major road traffic is held up, and there is impatience in such circumstances for one vehicle to turn from a minor road. This new rule has been introduced in South Australia for that circumstance. I repeat very strongly that the same rules that apply now when one approaches a red light or stop light will continue in the future: that is, the vehicle must stop, must give way to pedestrians and all other vehicles, and only where it is obvious that there is no risk, no vehicle in sight and no pedestrian would they be able to turn.

As I say, this will be applied to only a very limited number of intersections in the Adelaide metropolitan area. In terms of a full explanation of the road rules, on 10 November a major campaign will be launched involving TV, radio and newspapers. A CD-ROM is being sent to all public libraries and schools and a booklet will be sent to every household in South Australia explaining the road rules. For many households this will be the first time they have had a refresher course on the road rules generally, let alone on the new rules to apply.

It is particularly relevant that we are noting today the joint Transport Safety Committee report on driver testing and licensing, because it was apparent in evidence to us that there was very little opportunity for people to refresh themselves on road rule changes at any time. I think that people will be surprised about some of the road rules that have been on the statutes for years and about which they are not aware and therefore have not applied them.

This major public relations campaign will be launched on 10 November and will run for three months. It will be a very good road safety education campaign overall. I highlight that the police activity during this time will be education, training and cautioning in terms of the 40-odd new rules. The police will have no reason, and nor should motorists, to be relaxed in terms of all the rules that are on the statutes and will not turn a blind eye to them during this three month period from 1 December; but, in terms of the new rules, the police will be working very closely with motorists to help them understand the changes.

STATE SUPPLY DIRECTOR

The Hon. SANDRA KANCK: I seek leave to provide an explanation before asking the Minister for Information Services and Administrative Services a question about the Director of State Supply.

Leave granted.

The Hon. SANDRA KANCK: Since December last year I have been raising concerns about the government's Procurement Reform Strategy. Indeed, I stated that the procurement strategy administered by Supply SA, which is the agency responsible for procurement, was costing our health system dearly. My office calculated that an estimated $20 million was being wasted due to poor tendering and contracting practices in Group 65 medical products.

As a consequence, the Auditor-General is now conducting an investigation into the procurement practices of Supply SA, including whether it is observing the eight-point Procurement Reform Strategy released by the Department of Information and Administrative Services in May 1998. These include: value for money in the expenditure of public funds; open and fair competition; and professional integrity and probity.

On 10 December the minister answered a question asked by the Hon. John Dawkins stating that the reform strategy was on track. He stated that one of the proposals for the strategy was 'to raise the degree of professionalism in procurement across the whole of government'. I have now been given information which casts further doubt over the government's Procurement Reform Strategy. I have been informed that the Director of Supply SA, Mr David Burrows, has been working 'off-line' for the past six weeks subject to an investigation. My questions to the minister are:

1. Why is the investigation taking place?
2. Who is conducting the investigation?
3. Has the Auditor-General been informed of the investigation?
4. What are the terms of the employment contract between the government and the Director of Supply SA?
5. What checks were done on Mr Burrows' employment record before he was appointed Director of Supply SA?

The Hon. R.D. LAWSON (Minister for Disability Services): The honourable member began her explanation by suggesting that, according to her, some $20 million had not been saved and that in fact additional expenditure had been incurred, notwithstanding the implementation of the Procurement Reform Strategy of the government. Contrary to that assertion, the procurement reforms have indeed yielded benefits to the state budget. I am advised that as at 30 June this year the savings realised by the Procurement Reform Strategy were of the order of $12 million, and that the anticipated savings over the life of that strategy will be achieved.

The honourable member also said in her explanation that the Auditor-General was conducting an investigation into the affairs of State Supply in so far as they relate to Group 65 medical products. That is a misstatement of the position. The Auditor-General, because of a resolution of this Council, is examining some allegations—unestablished at this stage—made by the honourable member in a speech that she made to this chamber last year.

I think it is quite wrong to suggest, as she does, that the Auditor-General of his own volition is investigating some impropriety. He is examining allegations that the honourable member made. I certainly encourage the Auditor-General to undertake that examination, notwithstanding that my advice was that the substance of most of the allegations were without foundation.

The honourable member raises questions about a particular officer, which I think is perhaps unfortunate in this place, when she alleges that certain investigations are under way. I am not prepared until I receive a report from the department to comment upon the allegations made. If there is information which I can provide to the Council in relation to this matter I will bring back a reply as soon as I am in a position to do so.

ELECTRICITY, VOLTAGE LEVELS

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Treasurer, a question about voltage levels and electricity consumption.

Leave granted.

The Hon. NICK XENOPHON: Last Tuesday in the Leon Byner program on Radio 5AA, a Dr Michael Gunter

from the Victorian based Alternative Technology Association told Mr Byner that he had undertaken a study of actual voltage levels in Victoria, these studies taking place since the privatisation of that state's electricity assets. I hasten to add that he had not undertaken studies prior to the privatisation. Dr Gunter in his studies had observed that voltage levels were consistently above the nominal voltage of 240 volts, with the consequence that costs to consumers of electricity are thereby appreciably raised.

For instance, Dr Gunter has indicated that, under principles of Ohm's Law, a 6 per cent increase in voltage for a number of appliances (for instance, light bulbs, fan heaters and electric radiators) could lead to a 12.3 per cent increase in consumption. Dr Gunter further raised the concern that, because of a higher than needed voltage, particularly in non-peak demand times, the consequence could be that consumers are paying unnecessarily inflated power bills and, further, a number of domestic appliances and items such as light bulbs could have a shortened lifespan.

He has further estimated that a 3 per cent increase in average supply voltage could easily be costing commercial and domestic consumers in Victoria $60 million in electricity prices alone, plus additional unknown costs for the shortened lifespan of various appliances. My questions to the Treasurer are:

1. Is he, his department or advisers aware of the work on this issue carried out by Dr Gunter or the association he represents?

2. Do any of the electricity utilities in South Australia currently undertake a survey of voltage levels and, if so, are the results of these surveys publicly available, and to what extent are voltage levels higher than the minimum amount required for the effective running of appliances?

3. What safeguards can the Treasurer point to, in the context of the provisions of the independent electricity regulator and any other regulatory framework to ensure that consumers in South Australia will not face additional costs in electricity consumption and appliance replacement costs as a result of voltages being at a higher than needed level?

4. Can the Treasurer indicate whether the government would support the independent monitoring of voltage levels in South Australia now in the lead up to the sale of the assets and further monitoring once the assets are privatised and, further, whether the government is prepared to publish the results of such surveys so that the public is kept informed of the potential implications of unnecessarily high levels of voltage on electricity prices and on the lifespan of appliances?

The Hon. K.T. GRIFFIN (Attorney-General): I will take the question on notice for the Treasurer and see whether we can bring back a reply.

DOMESTIC VIOLENCE

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General a question about domestic violence.

Leave granted.

The Hon. L.H. DAVIS: The crime of domestic violence is now I think generally accepted to be far more widespread in the community than was previously recognised. I understand that the courts in South Australia have been particularly innovative in their approach to this important and serious issue. Can the Attorney-General advise the Council how the courts are approaching cases of domestic violence?

The Hon. K.T. GRIFFIN (Attorney-General): We all acknowledge that domestic violence is a crime that should not occur but does, and a lot of the emphasis of government is on prevention as much as on supporting those who might be the victims as well as endeavouring to change perpetrators' behaviour. But, when domestic violence occurs, it is important that it be appropriately addressed. As part of the violence intervention project in the northern suburbs, particularly in the Elizabeth area, a domestic violence court was established. It was a pilot project, which started in 1997. It was a joint initiative of the Courts Administration Authority, the Department for Family and Community Services and the Department for Correctional Services, and it was jointly funded by those agencies. One of the magistrates, Mr Fredericks, was chosen to be the magistrate primarily responsible for the pilot project. There was a steering committee that he worked with, and that included representatives of the various government agencies and the police department.

The program was evaluated after 12 months. It was universally felt to be successful, and it was worthy of being maintained at Elizabeth and gradually extended into other court areas. It has now been extended to the Adelaide Magistrates Court. It is envisaged in the courts area that both the programs will remain as permanent programs, although they will continue to be subject to assessment and evaluation. The program being run in the Adelaide Magistrates Court is run in essentially the same way as the pilot project at Elizabeth, but it does call upon assistance from more outside agencies such as Anglicare, the Salvation Army and Catholic Welfare to deliver some of the programs and projects and to provide supervision for offenders on the program.

The program works in the following way. The police identify all matters which involve family violence. They fall into two classes—although sometimes the offender's behaviour is the subject of both classes. The first deals with what we know as restraint orders; in some other jurisdictions, they call them apprehended violence orders. The second class of matters involves offenders charged with criminal offences relating to family violence incidents. The way in which the two classes of matters is dealt with does vary, and the reasons for that are apparent. I am told that all people who have been involved in the program—that is, defendants—so far have been men, although it is quite conceivable that a female offender might come to the notice of the court in the future, but it has not happened to date.

All family violence matters are listed in the family violence court. It is a separate court. It is presently sitting on one day per week at each of the two locations. They are closed courts and, while no legislation requires that to be the case, the courts feel that that does provide a more effective way of dealing with these issues. It has generally been reported about victims and by them that they feel much more prepared to speak about humiliating and confidential matters in the closed court environment. In addition to that, there are video link facilities at the Adelaide Magistrates Court for victims who feel particularly vulnerable.

With restraint orders, the court brings the defendant before it and informs the defendant that the court has a policy of not discharging these orders until such time as the defendant—and in some cases also the victim—has undergone or will undergo counselling or a treatment program.

Importantly, the issues of guilt or innocence are not addressed at that hearing. The court does take a fairly robust attitude and advises defendants that issues of guilt or

innocence are not critical at that stage; rather the court points out to both parties that what is clear is that the family structure is dysfunctional and there is an urgent need to address the matter in a constructive way if the relationship is not to founder and the male partner ultimately to face criminal charges if the issues are not addressed. The experience of the court to date has been that men invariably accept the options which the program offers to them.

If the defendant is willing to go on the program and if it can be designed to give sufficient protection to the victim and other family members, the hearing of the restraining order application is adjourned and that allows the male to embark upon one or more of the programs or projects offered within the system. After the program has been completed the defendant returns to the court where a final disposition is made. Very often it is found that the victim reports a significant change in the family dynamic and feels confident to invite the court to discharge the restraining order. In other circumstances, the restraining order will be kept in place for a specific period of time. With criminal offences, when the defendant is before the court issues of bail will—

An honourable member interjecting:

The Hon. K.T. GRIFFIN: No, it is not; it is an answer to a question.

Members interjecting:

The Hon. K.T. GRIFFIN: If members are not interested in domestic violence issues and what is happening—

Members interjecting:

The Hon. K.T. GRIFFIN: I thought you were all running out of questions.

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: That is all right. Just hold on. This is all good stuff and it is very important, too.

The Hon. R.R. Roberts: Why didn't you put it in a ministerial statement if it was so important?

The Hon. K.T. GRIFFIN: It is just as important as an answer to a question as it is in a ministerial statement.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: It is not going for very long. It is important. If members would prefer to listen to answers to other questions that are not so significant as domestic violence then members should say so. It is quite a legitimate question and it is quite—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: —an appropriate way to respond. I will talk now, just for a moment, about criminal offences. When the—

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: Did you say that it was boring?

The Hon. R.R. Roberts: I said that this is bordering on a criminal offence.

The Hon. K.T. GRIFFIN: I thought that you said it was boring because I was going to come back at you. With respect to criminal offences, as I said before there were these numerous interjections from members opposite, the court will make orders that are designed to protect the victim and, in appropriate cases, will order, as a condition of bail, that the alleged offender enters into the program. It is made plain to the offender that bail will not be granted unless he agrees to conscientiously participate in the designated program. So far no offender who has entered into the program at the time of the granting of bail has ultimately sought to plead not guilty.

Obviously, there will be some offences that are too serious to be treated in this way and so they will be outside the scope of the program. The interesting aspect of this program is that the results to date have been startlingly successful. In the 12 month pilot program at Elizabeth none of the 71 men who underwent programs during the restraint order procedure subsequently returned to the court charged with a breach of the order or with further offences of domestic violence; 67 men who had been charged with criminal offences involving family violence attended programs as terms of bail or a sentence bond, and only eight of those men breached their bond or bail and two of those breaches were only minor.

It can be seen that there is a significant level of innovation and also cooperation between not only the courts but other areas of the community, both government and non-government, and that this is an innovative way of dealing with those matters of family violence which end up before the court.

ETSA PROBITY

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Attorney-General a question on the Auditor-General's report on ETSA probity.

Leave granted.

The Hon. CAROLYN PICKLES: On page 29 of the Auditor-General's report, where he refers to the issue of checks on the second auditor, he points out:

> . . . it is not clear what, if any, background checks have been carried out.

The Auditor-General also says that the powers of the probity auditor are not sufficient. He continues:

> The limited scope of the role of the probity auditor. . . means that under the current arrangements it is not possible for a comprehensive and defensible probity review to be undertaken on the entire disposal process. This must, by implication, potentially expose the state to increased liability.

My questions are:

1. Given the utmost important of the highest standards of probity in the electricity lease process and the fact that the Auditor-General has found that the present probity arrangements are 'inadequate', can the Attorney-General confirm that a person initially appointed to work on probity for the electricity privatisation had a conflict of interest; did this conflict involve that person or the firm for which he was working having links to one or more of the companies bidding to buy our electricity assets; and how did the government select this person in the first place?

2. Will the government now comply in full with the recommendations of the Auditor-General in relation to the probity auditor for electricity privatisation; and, in particular, why has the government again failed to undertake a proper background check on the bona fides of the second probity auditor to ensure there is not another conflict of interest?

The Hon. K.T. GRIFFIN (Attorney-General): I have not had an opportunity to read the report of the Auditor-General, which was tabled only this afternoon.

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: He does not give me advance notice of it. The honourable member may recall, if she had seen the press today and also had received a copy of the media release from the Treasurer, that yesterday he did deal with two issues relating to the probity auditor. My recollection is that he indicated that the contract of the probity auditor was being extended to put beyond doubt that the probity auditor had unlimited authority to have access to all docu-

ments, papers and other materials to ensure that there were no limitations on the role of the probity auditor. That was something which, I think, we all believed was the position, but the Auditor-General appears to have taken a somewhat different view. I think that may be ultimately put down to an issue of semantics, but I do not want to categorically identify that, because I have not read in detail the Auditor-General's report.

The other issue is resources. My understanding from the Treasurer is that he had always made clear that the probity auditor would have whatever resources the probity auditor believed were necessary to ensure that the task was properly undertaken. I am not aware, and I am sure the Treasurer would not be aware, of any deficiency in the probity auditing process from the government's point of view and the Treasurer's point of view, in particular. Obviously, we want to ensure that the transactions relating to the leases of relevant electricity bodies and also the sale of those which are not the subject of leasing are beyond question. No government wants to go into these sorts of transactions with any suggestion that we are not prepared to ensure that proper probity and prudential management issues are in place. In terms of the first probity auditor, that is a question that I will take on notice for the Treasurer so that he can answer it on his return. In relation to the second probity auditor—

The Hon. T.G. Roberts: The first one ran on Murphy's Law.

The Hon. K.T. GRIFFIN: That is not correct. I know that some members opposite have a fundamental opposition to disposing of the electricity assets and some of them on philosophical or ideological grounds will seek to undermine it in whatever way possible, but there are still a few in the opposition who ultimately believe that this has to happen.

The Hon. Carolyn Pickles: Now you are going to do it, do it properly.

The Hon. K.T. GRIFFIN: It is being done properly.

The Hon. Carolyn Pickles: That is not what the Auditor-General is saying.

The Hon. K.T. GRIFFIN: The Auditor-General does not say that it is not being done properly. He is just raising some issues that have to be addressed. In terms of the issues that the Auditor-General raised, apart from the two that I have specifically mentioned which have been the subject already of comment by the Treasurer, the rest of the issues raised by the Auditor-General will be the subject of consideration by the Treasurer and appropriately addressed.

The Hon. A.J. REDFORD: I have a supplementary question. Will the Attorney-General bring back information to this place from the current probity auditor confirming whether or not the current probity auditor believes that the present arrangements for probity review are adequate? Has anyone suggested that the current probity auditor is not an appropriate person to conduct that task, given that he is a former officer of the Australian Securities Commission and commands a very high reputation? Has the probity auditor made any criticism in any way, shape or form of the government in so far as the amount of resources provided to him for the purposes of conducting that probity audit?

The Hon. K.T. GRIFFIN: I will have to take those questions on notice and I will endeavour to obtain the information and bring back a reply. So far as the current probity auditor is concerned, as the honourable member indicated, Mr Stretton was the regional commissioner for South Australia with the Australian Securities and Investment Commission. He was highly regarded in that task and as a barrister at the independent bar. In terms of the other issues raised by the honourable member, I will refer them to the Treasurer and seek to bring back replies.

MURRAY RIVER FISHERY

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, Natural Resources and Regional Development, a question about fishing in the Murray River.

Leave granted.

The Hon. IAN GILFILLAN: Last Saturday I attended a public meeting at Walker Flat to discuss the state of the river fishery. The meeting was called in response to several developments in the river fishery this year and was convened by the local council of that area. Mayor Ian Mann was a principal contributor.

In March the all-party Environment, Resources and Development Committee found that it was impossible to tell whether current fishing activity in the river was sustainable. Therefore, in a tripartisan report the committee recommended getting accurate annual assessments of native fish stocks in the Murray and, based on the lack of proof that the river fishery is sustainable, that all commercial fishing in the river be phased out over 10 years. However, the government rejected that advice and, on 1 July, did the opposite, increasing the size of commercial fishing reaches by up to two kilometres each and opening up the backwaters of the Murray River.

In a letter to the member for Hammond (Peter Lewis) on 10 August 1999, the Minister for Primary Industries (Hon. Rob Kerin) stated:

> To remove current entitlements to either commercial or recreational sectors without biological, social or economic information would be inequitable.

Whilst the committee viewed the lack of proof of sustainability as a reason to stop fishing commercially, the minister viewed this same lack of proof as a reason not to change the status quo and has instead increased the access of commercial fishers. The committee also took much evidence on the effect of the river fishery of illegal fishers (poachers), and recommended funding more compliance officers (to help reduce the incidence of illegal fishing) and a levy on recreational fishers. At the Walker Flat meeting last Saturday, in a response to a question from me to the Director of Fisheries, Dr Gary Morgan (who was present throughout the whole meeting), he told us that he had only one compliance officer for the entire river (that is, north of the barrage) when in fact he needed at least four.

However, the minister has rejected the committee's recommendation for funding more compliance officers through a levy on recreational fishing. The minister has not come up with any alternatives for funding compliance. Therefore the status quo is that a single compliance officer in the Riverland is funded entirely from the levies of commercial fishers, and there is little fear of any illegal activity by poachers or fishers, either recreational or licensed, being detected, let alone prosecuted. My questions to the minister are:

1. Does the minister agree with the Director of Fisheries that four compliance officers are needed in the Riverland? If so, what action will he take?

2. Why does the government put so few resources into monitoring compliance when, by the minister's own admission, it does not know whether even the legal commercial fishing practices are sustainable?

3. If the minister does not have adequate biological, social or economic information, so that removing current entitlements would be inequitable, on what basis did he move on 1 July to increase current entitlements to commercial fishers and when does he expect to have adequate biological, social or economic information?

4. Finally, why has the minister permitted commercial fishers to take native fish species from backwaters since 1 July, and when will the minister act to end this practice, which he says he does not support?

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

CHAUFFEURED STATION WAGONS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport questions about chauffeured station wagons.

Leave granted.

The Hon. T.G. CAMERON: Adelaide Impressions have been operating since 1993, providing all types of chauffeured services to the South Australian public. During this time they have always had a number of station wagons in their fleet. The Passenger Transport Board implemented a policy in February 1998 that station wagons were not of a high enough standard to be a chauffeured vehicle. In terms of service, the type of vehicle is irrelevant. A good chauffeur could be driving a Volkswagen and still deliver a superior level of service to the client.

Whilst most chauffeured vehicle organisations, including Adelaide Impressions, have a luggage trailer, the productivity lost by making a vehicle divert to collect a trailer and then return it afterwards means a reduction in the number of jobs this vehicle can carry out on that day, thus fewer clients are looked after. Often the cost of this exercise has to be passed on to the consumer, when a station wagon would have been able to carry out that job without any disruption or inconvenience.

Examples of uses for station wagons specifically include airport transfers; assisting in moving clients between offices; urgent parcel deliveries; filing cabinets; automotive parts; where a client needs to travel with the item; bank runs, etc. The matter of whether this type of vehicle is used for jobs that do not specify a station wagon in my view should not be decided by the PTB: the discretion of the individual operator or booking office should prevail. In other words, people should be allowed to make the choice: a favourite word used by the minister's party from time to time—give people a choice.

Surely if a client receives a station wagon when he or she ordered an LTD, he will soon find another service provider. The point I am making here is that whether or not the public wants to hire chauffeur driven station wagons should be determined by the market. In other words, let market forces sort out whether or not people want to hire chauffeur driven station wagons.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: I will ignore the inane interjections of the Hon. Angus Redford, otherwise there will not be enough time for the minister to answer my questions. My questions to the minister are—

The Hon. A.J. Redford: Do you want an answer, too, or some facts?

The Hon. T.G. CAMERON: I still live in hope, after five years, that one of my questions will be answered. My questions are:

1. What were the reasons for the PTB's decision to prevent station wagons from being used as chauffeured vehicles?

2. Considering this government's frequently professed belief in the power of market forces and choice, and considering that some customers find it very useful to order a chauffeured station wagon, would you be prepared—

The Hon. A.J. Redford: What for?

The Hon. T.G. CAMERON: Angus Redford interjects 'What for?' He is a very selective listener. He did not listen to the last part of my explanation: I did explain it, so I will repeat the question. It is as follows:

2. Considering this government's frequently professed belief in the power of market forces—that is, let people have a choice in determining the decisions that impact on their lives—and considering that some customers want and find it useful to order a chauffeured station wagon, would the minister be prepared to have the PTB re-examine its 1998 policy decision and, if not, why not?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): We have been over this many times. The regulations that were introduced in 1999 were based on community consultation, there was an agreed position, and the honourable member has seen the correspondence from the representative associations.

The Hon. A.J. Redford: Thoroughly reviewed by the Legislative Review Committee.

The Hon. DIANA LAIDLAW: The Legislative Review Committee looked at all that.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: No, that is a cheap shot and unworthy of you, because there was wide consultation. I will again show the honourable member, but he may not care to read the correspondence because it does not suit his political agenda. The representative bodies in terms of the hire vehicles, of which the association he referred to today was a member, I understand supported the regulations as introduced. That advice was given to the parliamentary Legislative Review Committee.

At no time in South Australia have market forces reigned—perhaps they did in colonial days—for the taxi and hire vehicle industries. The former Minister for Transport, the Hon. Frank Blevins, deregulated, to a large extent, but not fully, the hire vehicle market. Those in both the hire vehicle and taxi associations still remember him with a great deal of disgust. Since that time it has been agreed by this parliament, with the passage of the Passenger Transport Act and subsequent legislation and regulations, that this will be a regulated area.

The honourable member knows that the Passenger Transport Act is being reviewed given the national competition policy. If the honourable member says there should be a free go, free rein, no controls, no regulations and no standards—and that is what the regulations seek in the public interest to apply—and that standards—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: Well, that is what you will find if you are going for the deregulation you are

seeking. We have always said we wanted a regulated industry. The present regulations have been supported by public consultation and by this parliament to provide standards in the public interest, and I will support that approach.

GROUND WATER

The Hon. G. WEATHERILL: I seek leave to make a brief explanation prior to—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The Hon. Mr Cameron has asked his question. There are other members in this chamber.

The Hon. G. WEATHERILL: I seek leave to make a brief explanation prior to asking the Minister for Transport, representing the Minister for Environment and Heritage, a question about ground water.

Leave granted.

The Hon. G. WEATHERILL: I believe that the potential removal of 900 gigalitres of ground water is identified in the draft state water plan. My questions are as follows:

1. Can the minister confirm that the South-East, with Eyre Peninsula, is one of the two areas in South Australia to be potentially devastated by dry land salinity?

2. Can the minister identify the number of gigalitres of ground water which, when removed, will trigger an ecological collapse in the relevant area of the South-East?

3. Would the ecological collapse of an area not contribute to the area's salinity problems?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the honourable member's questions to the minister and bring back a reply.

ABORIGINAL AFFAIRS NEWSLETTER

In reply to **Hon. T.G. CAMERON** (28 September).

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The Minister for Aboriginal Affairs has provided the following information.

As the honourable member has recognised, the Native Title Bill is under the jurisdiction of the Attorney-General who has informed the Minister for Aboriginal Affairs that the proposed legislation has been the subject of a campaign of extensive consultation and publicity.

The Minister for Aboriginal Affairs supports the division's initiative in producing a high quality newsletter that highlights the positive achievements of the division in the Aboriginal community that may not otherwise gain mainstream media attention.

KANGAROO ISLAND

In reply to **Hon. IAN GILFILLAN** (29 September).

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The following information is a part response in relation to freight rates to/from Kangaroo Island. A response in relation to the Ports Corporation issues will be provided when advice has been received from the Minister for Government Enterprises.

Freight Rates Comparison

To assess the relative costs of commercial ferry services for freight and passenger vehicles, three ferry services have been compared, namely:

- The state government subsidised SeaLink service between Cape Jervis and Penneshaw.
- The federal government subsidised Spirit of Tasmania service between Melbourne and Devonport.
- The Queenscliff-Sorrento Port Phillip Bay passenger/vehicle service.

The cost comparison is set out in tabular form as follows:

Cargo Description	Cape Jervis to Penneshaw One Way (16 Kms)	Melbourne to Devonport One Way (429 Kms)	Queenscliff to Sorrento One Way (10 Kms)
Charge per Car	$65 No subsidy Net Charge $65	$180-185 Less Subsidy : $150 Net Charge $30-$35	$32 No subsidy Net Charge $32
Charge per 12 metre Rigid Truck	$312 Less Subsidy : $67.20 Net Charge $244.80	$1860 Less Subsidy : $940 Net Charge $920	Not Applicable

The ferry cost comparison shows that:

- cars are subsidised at a rate of 83 per cent on the Melbourne to Devonport service, but are not subsidised on the other two routes; and
- selected freight is subsidised at 50 per cent on the Melbourne to Devonport service, and all freight at 21 per cent on the Cape Jervis to Penneshaw service.

In considering the Cape Jervis to Penneshaw, and Queenscliff to Sorrento services—and considering the different distances, traffic volumes and sea conditions—it can be argued that the charges for passenger cars are broadly equivalent.

In comparing relative freight costs, the absolute cost of the Melbourne to Devonport (Tasmania) service is higher than the Cape Jervis to Penneshaw (Kangaroo Island) service, albeit that the distance is considerably further. Nevertheless, not all freight between Tasmania and the mainland is subsidised with notable exclusions including (international) Tasmanian exports shipped to the Australian mainland, bulk cargoes, fuel, new and second hand motor vehicles.

Freight Subsidy and KI Freight Study

The government considers the ports of Cape Jervis and Penneshaw to be an integral part of the freight transport corridor that links Kangaroo Island by road and sea to intrastate, interstate and international markets. Accordingly in 1995 the government put in place an economic development package to assist the Kangaroo Island Community, which included:

- funding road infrastructure improvements at a cost of $22.5 million over 5 years;
- encouraging structural reform through provision of a 10 year annually reducing freight subsidy scheme (currently set at $4.80 per linear metre of freight); and
- the provision of a further $2.5 million to Ports Corp South Australia for the purpose of upgrading the port facilities at Cape Jervis and Penneshaw.

In the meantime, in order to better understand the Kangaroo Island freight market, the Kangaroo Island Development Board (KIDB)—supported by the Kangaroo Island Council, the Treecorp Group, Plantation Forestry Managers, SACBH and Transport SA—has commissioned the Kangaroo Island Freight Study. This study is assessing the current and future freight needs of the Kangaroo Island community, including the potential to segment the market and the level of subsidy applying to similar ferry services in the region.

It is anticipated the first draft report will be completed by November 1999, followed by the development of a Kangaroo Island Freight Strategy designed to reduce freight costs between Kangaroo Island and the mainland. KIDB are managing the project.

PUBLIC TRUSTEE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Attorney-General a question about the Public Trustee and the case of the 'missing million'.

Leave granted.

The Hon. CARMEL ZOLLO: In the Audit Report: Volume A4, the Auditor-General refers to a case study of a transaction conducted by the Public Trustee in 1998 in the implementation of an electronic transfer of beneficiary funds in excess of $1 million. The audit states:

> The transaction did not result in the correct disbursement of those funds due mainly to inadequate control exercised over the funds transfer.

The foreign electronic funds transfer was conducted by instructing the Reserve Bank of Australia by method of completing a standard form. It appears that part of the form was incorrectly completed (an incorrect routing code number) and as a result the funds were not transferred to the intended beneficiary but to an account in a different bank. Subsequently sometime later the incorrect transfer was discovered and attempts were made by the Public Trustee to recover the funds, only to discover that in the intervening period the funds had an 'unauthorised withdrawal'.

I understand that the Crown Solicitor conducted an investigation into this matter in July 1998 and concluded that there was a failure by personnel involved and that incorrect manual processing or intervention had occurred. The audit further indicates that, at the time of the preparation of the report, the Crown Solicitor had sought and was awaiting the receipt of legal advice on this matter. My questions are:

1. Can the Attorney indicate whether this advice has been received and what action is to be taken with regard to this matter?

2. Does the Public Trustee remain liable for the funds to the originally intended beneficiary?

3. Have policies and standards been implemented by the Public Trustee to prevent such occurrences in the future?

4. Will the Attorney indicate whether these electronic commerce standards will be communicated and applied to other agencies?

The Hon. K.T. GRIFFIN (Attorney-General): I am certainly aware of the incident. My understanding is that procedures are now in place to ensure, as much as it is possible to ensure, that this does not happen again. There are some insurance issues which have arisen. I will have to take the question on notice and bring back a detailed reply. There is some detail in it and I would much rather get it correct than just do it from memory. So I will refer the matter to the Public Trustee and the Crown Solicitor and bring back a reply.

CRIMINAL LAW (SENTENCING) (SENTENCING PRINCIPLES) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Criminal Law (Sentencing) Act 1988. Read a first time.

CRIMINAL LAW CONSOLIDATION (SERIOUS CRIMINAL TRESPASS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935. Read a first time.

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

That this bill be now read a second time.

There has been a great deal of attention given to the problem of what is popularly known as 'home invasion' occurring in South Australia in 1998 and 1999. There has in that period been what appears to be an escalating pattern of crimes reported and discussed in the media as 'home invasions'. These might generally be described as criminal incidents in which intruders force entry into an occupied dwelling and then commit one or more further crimes in the dwelling when occupants are lawfully present and particularly when those offences are committed against those occupants personally. It is difficult to be more precise than that general description because, at the margins, what is and what is not 'home invasion' is difficult to define.

The Office of Crime Statistics has, for its purposes, analysed the descriptions of the phenomenon as reported in the media and as employed by law enforcement agencies and proposed the following working definition:

> In summary, 'home invasion' seems to be understood, at the very least, as an incident involving unlawful entry into a house with intent to commit a crime, when the occupants are at home. Most references to 'home invasion' also include one or both of the following elements:
>
> · some type of confrontation between offender(s) and occupant(s), involving violence (or the threat of violence) against the occupants; and
>
> · removal (or attempted removal) of property from the home.
>
> In addition, there appears to be a general public perception that 'home invasion' involves an intruder who is not known to the victim.

In August 1999, the Office of Crime Statistics produced an information bulletin about home invasion in South Australia. In brief, the bulletin found that, while there was no legal or even generally agreed definition of 'home invasion', some statistical conclusions could be drawn from crime statistics about the type of crime involved. Those conclusions can be summarised as follows:

· On best estimates, there were about 114 'home invasion' reports in 1997 and about 157 reports in 1998. Therefore, there has been quite an increase between those two years, but an in-depth study of police incident reports is checking that conclusion.

· If a wider view of the category is taken, there were about 228 'home invasion' reports in 1997 and about 276 in 1998. Again, the detail is being checked.

· Not only are these estimates showing an increase, but reported incidents involving armed robbery showed a considerable increase between 1997 and 1998, from 42 to 80.

· It may be the case that, with the 'hardening' of targets such as banks, shops and petrol stations, offenders are looking for 'softer' targets and finding them in residences.

· It is possible that there is an under-reporting of these incidents for a variety of reasons, including the fact that the target of the 'home invasion' was an illicit drug crop or some other illegal property.

· While the media have commonly portrayed the elderly as being specifically at risk, the fact is that the 25 to 34 year old age group has a greater risk of being victimised.

· 'Home invasions' amount to .1 per cent of all recorded crime.

The Office of Crime Statistics has undertaken further and more detailed research into those basic figures by obtaining and analysing police incident reports. That analysis has shown that the bare figures noted above considerably overestimate the quantum of 'home invasion' offending. Based on the police incident reports and the definition of 'home invasion' quoted earlier, the office has found that, of the 157 probable 'home invasions' listed in their earlier report

for 1998, only 79 fitted the definition. This is slightly more than half the previous number.

The Office of the Director of Public Prosecutions has consistently advised the Government that the level of penalties provided for by law and imposed by the courts is entirely adequate and that no change in the law is required. However, the Office of the Director of Public Prosecutions has acknowledged that there needs to be a greater consistency in charging practices in relation to 'home invasions'. Greater consistency would have a number of benefits—similar allegations treated in the same way would bring a higher level of integrity to the system and a better capacity to identify what are really 'home invasions' under an agreed definition. Accordingly, I have requested the Director of Public Prosecutions to consider issuing guidelines as to the charging practices to be followed by his own prosecutors and the police with respect to those allegations which could properly be categorised as 'home invasions'.

A Salisbury resident has collected signatures for a petition which asks that Parliament 'give urgent and full deliberation to amending existing legislation relating to sentences imposed on persons convicted of robbery with violence in the home. The petitioners pray that such sentences be substantially increased and therefore deter perpetrators of such crimes against the community.' The organisers of the petition held a loud and at times abusive public meeting, estimated at about 2 000 people, on the steps of Parliament House on 20 October 1999. While the Leader of the Opposition was invited to speak, no member of the Government was given an opportunity to respond. The petition was presented in the House of Assembly later that day. It is said to contain 102 501 signatures.

On Monday 18 October, I released a discussion paper on 'home invasion' for public comment. The deadline for comment was 11 November 1999. The discussion paper contained the information noted above from the Office of Crime Statistics, a discussion of the current law on home invasion, the penalties applicable to it and applied to it, and presented and discussed the merits of three options for legislative change. Those options were:

1. A bill to restructure the offences of robbery and burglary so that each would have a basic form with a lesser penalty and an aggravated form with a greater penalty. The aggravated form of each of these offences would include a definition of 'home invasion'. In each case, the maximum penalty applicable to the aggravated form would be 25 years imprisonment.

2. A bill to amend the Criminal Law (Sentencing) Act to insert general directions about the seriousness with which 'home invasion' should be viewed by a court passing sentence. The bill would state that, in sentencing for 'home invasion', deterrence should be a primary consideration and would also make it clear that 'home invasion' was one of the general categories of offence in which a court should consider imposing a sentence of immediate imprisonment.

3. A bill to restructure the offences of burglary and break and enter so that they would be replaced with two offences of criminal trespass, each of which would have a simple form and an aggravated form. The division would be between criminal trespass as it affected non-residential buildings and criminal trespass as it affected residential buildings. The aggravated form of the residential offence would include 'home invasion' and the applicable maximum penalty would be life imprisonment.

There can be little doubt that there are many older citizens, particularly women, who are genuinely afraid that they may become victims of 'home invasion' even though, in reality, that is unlikely to occur. Now is not the time and place to debate the very real problem of fear of crime. It is clear, though, that it can be reinforced by the media and politicians 'beating it up'. Suffice to say that it does no-one, least of all older citizens, a service by using the issue for base political motives.

The core of the problem is that there is no one, or any, simple solution. The facts are that no demonstrable flaw in current legal arrangements can be found by any knowledgeable or neutral observer. All of this has had the quite appalling effect of raising the fear of crime in those who have the least reason to fear it, and taking the debate about how to deal effectively with crime back over 20 years. Since then, there has been commendable bipartisan support for a multi-faceted approach to crime control centred on a combination of good laws, appropriate punishments, smart policing, tackling the causes of crime and a range of community crime prevention measures.

The essence of the demands now being placed upon the government are based on the assumptions that (a) passing a law against something which is already seriously criminal will significantly reduce or eliminate the problem; (b) that crime control is solely the responsibility of the government of the day rather than being the responsibility of the community as a whole; and (c) that putting offenders into prison for longer periods of time will solve the problem. None of these assumptions is true. However, it is quite clear that the public expects the government to act and, accordingly, the government has decided to do so.

The course that we have decided to follow is to introduce two of the three bills presented as options in the discussion paper on 'Home Invasions'. This bill presents to the parliament that option designated as option C in the paper. The offences of dishonesty and associated offences contained in the Criminal Law Consolidation Act are archaic. They are more or less in the same form that they have been for well over a century. They need renovation, simplification and adaptation to the needs of modern South Australia. But radical renovation of a small part of these offences in isolation may carry a risk of distorting the comparative weight of penalties applicable to the offences. The difficult part of the current penalty structure is that the present offence of burglary carries a maximum penalty of life imprisonment. It is worthwhile repeating that offence here, and I quote:

Burglary

168. A person who, in the night—

(a) breaks and enters the place of residence of another intending to commit an offence to which this section applies[1] in the place; or

(b) breaks out of the place of residence of another after—

(i) entering the place to commit an offence to which this section applies[1] in the place; or

(ii) committing an offence to which this section applies[1] in the place,is guilty of burglary and liable to be imprisoned for life.

Note—

1.ie. larceny or an offence of which larceny is an element; an offence against the person; or an offence involving interference with, damage to, or destruction of, property punishable by imprisonment for 3 years or more.

There are several things to note about this offence. First, it is restricted to offences which occur at night. Second, it is restricted to places of residence. Third, it is restricted to cases

of break and enter, and not merely unlawful entry. In short, it looks very much like a separate offence of 'home invasion' albeit an old and imprecise one. Whether or not the offence takes place at night is, in modern times, of little consequence. It can be argued that, whether or not there is a break and enter or mere unlawful entry is now of little consequence, as the law has now evolved to a degree where it can be said that the distinction has almost vanished.

It is not proposed to go into the technicalities of what is and what is not a 'breaking', because it is arguable that the distinction is no longer sensible and should be abandoned. As the other offences (reproduced above) show, other unlawful trespass crimes attract maximum penalties which are comparatively minor—seven to eight years—when compared with life imprisonment. This bill, then, proposes the restructure of the current sequence of criminal trespass offences, retaining the maximum of life imprisonment for the most serious of them. The bill proposes replacing the current set of criminal trespass offences with a new set.

The new set of offences divides into two parts—serious criminal trespass of a residence on the one hand, and serious criminal trespass of other places on the other. The residential offences are graded as more serious by the imposition of higher maximum penalties, with life imprisonment remaining for aggravated criminal trespass to a place of residence. 'Home invasion' is an aggravated feature of serious criminal trespass to a place of residence. It should be noted that this proposal in practice raises the maximum penalties for all offences which fall under the current categories, because:

- the new maxima are higher than before;
- the traditional limitation to offences which occur at night is removed, extending it to offences whether they occur during the night or day; and
- the traditional requirement of both break and enter is removed in favour of mere unlawful entry.

The last two changes widen the scope of the offence whilst retaining life imprisonment, with potential consequences for sentencing. In the circumstances, the bill signals one of the government's preferred positions. The discussion paper set a date of 11 November for close of submissions and it is hoped that the publication of the discussion paper and the introduction of this bill will encourage intelligent, constructive discussion. There is one other relevant matter and that is the notion of 'minimum penalties'. Some calls have been made for 'minimum penalties', possibly even from the opposition, although it has been difficult to discern exactly what it proposes. However, this bill does not seek to introduce minimum penalties for the following reasons—

The Hon. Ian Gilfillan: Do you intend to hold up debate until 11 November?

The Hon. K.T. GRIFFIN: Close to it. There is now a considerable body of research that has been done on mandatory minimum sentences for serious offences. This research from England, Australia and the United States shows that:

1. They are unjust. It is not possible for the parliament to think out in advance the large variety of circumstances in which offences are committed and the variations in just desert that apply to the people who commit them.
2. They do not work in the way in which proponents argue that they will. Increase in sentence severity will not, in itself, necessarily lead to fewer crimes, because punishment is only one aspect of sentencing, let alone one aspect of the criminal justice system considered as a whole. A number of studies show no correlation between the rate of offending and the imposition of mandatory minima.
3. They build up various avoidance procedures or negative consequences. For example:
   - Since there will be no place for a discount for plea of guilty or, indeed, no incentive to plead guilty, the number of trials and appeals will increase and, therefore, so too will legal aid costs, court backlogs, victim trauma and remand rates.
   - Courts (especially juries) will become more reluctant to convict of mandatory minimum offences. Some studies in the United States show a marked decrease in convictions.
   - Courts will oppose these measures and strive to find ingenious ways around them. More depends on charging practices and plea bargains, this involving redistribution of power from courts to prosecutors (see below).
4. They attack the constitutional structure of the criminal justice system. There is a significant interference in the traditional and well settled principles of the separation of powers. The constitutional structure of the criminal justice system that we now have and have had since the 1820s is based on respect for a system of checks and balances in the exercise of power. Parliament, the judiciary and the executive each have a role in the exercise of the power of the state over the individual. Mandatory minima involve an intrusion of the parliament into the role of the judiciary. Experience in the United States also suggests a transfer of power from the judiciary to the Executive.
5. They may well increase disparity in sentencing rather than decrease it. The effect of mandatory minima in serious cases is that power is transferred to the non-public processes of charging and plea negotiation. Hence, sentencing power is transferred from the publicly open courts to the closed doors of prosecution practices. It may also mean that some innocent people are being pressured to plead guilty because of the mandatory sentence. It also appears from American evidence that whether a mandatory minimum is applied or not is related to irrelevant factors, notably the race of the defendant, blacks being more likely than whites to receive the mandatory minimum.
6. If applied as intended, mandatory minimum sentences increase the prison population substantially. That may well be the intention. But it is not without its costs. Those costs are human and financial. The human cost can be summarised by saying that there is no evidence that prison rehabilitates and every evidence that it makes errant people worse. The financial costs are well known. Prison is far and away the most expensive option for punishment. In 1997-1998, the South Australian Government spent $55 772 per annum per prisoner. If new prisons are required, this figure will rise substantially.

While minimum penalties will, for some, have superficial attraction, it can be seen that in substance they are singularly unattractive.

I commend the bill to the Council and seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 5—Interpretation

A new definition of offensive weapon is inserted. One of the circumstances of aggravation in the new offences relating to serious

criminal trespass is if the offender has an offensive weapon in his or her possession.

An offensive weapon is—

- an article or substance made or adapted for use for causing, or threatening to cause, personal injury or incapacity including—
- a firearm or imitation firearm (*ie* an article intended to be taken for a firearm); or
- an explosive or an imitation explosive (*ie* an article or substance intended to be taken for an explosive); or
- an article or substance that a person has—
- for the purpose of causing personal injury or incapacity; or
- in circumstances in which another is likely to feel reasonable apprehension that the person has it for the purpose of causing personal injury or incapacity.

Clause 4: Substitution of heading above s. 167

This is a consequential amendment to the heading to reflect the changes in the substituted sections.

Clause 5: Substitution of ss. 168, 169 and 170

168. Serious criminal trespass

This new section describes the essence of the new offences of serious criminal trespass. A person will have committed serious criminal trespass if the person enters or remains in a place as a trespasser with the intention of committing—

- larceny; or
- an offence of which larceny is an element; or
- an offence against the person; or
- an offence involving interference with, damage to, or destruction of property punishable by imprisonment for three years or more.

169. Serious criminal trespass—non-residential buildings

This new section deals with serious criminal trespass in a non-residential building—ie a building or part of a building that is not a place of residence.

The offence will be an aggravated offence if—

- the offender has an offensive weapon in his or her possession; or
- the offender commits the offence in the company with one or more other persons.

Maximum penalties are provided as follows:

- ordinary offence: 10 years imprisonment;
- aggravated offence: 20 years imprisonment.

170. Serious criminal trespass—places of residence

This new section deals with serious criminal trespass in a place of residence—ie a building, structure, vehicle or vessel, or part of a building, structure, vehicle or vessel, used as a place of residence.

The offence will be an aggravated offence—

- in the same circumstances as apply in relation to non-residential buildings; plus
- if another person is lawfully present in the place and the person knows of the other's presence or is reckless about whether anyone is in the place.

Maximum penalties are provided as follows:

- ordinary offence: 15 years imprisonment;
- aggravated offence: life imprisonment.

Clause 6: Repeal of s. 173

The separate offence of larceny in dwelling houses is repealed.

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

CRIMINAL LAW (SENTENCING) (SENTENCING PRINCIPLES) AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

The background to the introduction of this bill is fully set out in the second reading explanation for the introduction of the Criminal Law Consolidation (Serious Criminal Trespass) Amendment Bill 1999. It would be a waste of time of the Council to repeat those matters here.

I therefore turn to an explanation of the bill. In South Australia, the general regime of sentencing is governed by the Criminal Law (Sentencing) Act 1988. That legislation contains a statement of the general principles that should govern the imposition of a sentence by the courts. Currently, section 10 of the act provides:

Matters to which a sentencing court should have regard

10. A court, in determining sentence for an offence, should have regard to such of the following matters as are relevant and known to the court:

(a) the circumstances of the offence;
(b) other offences (if any) that are to be taken into account;
(c) if the offence forms part of a course of conduct consisting of a series of criminal acts of the same or a similar character—that course of conduct;
(d) the personal circumstances of any victim of the offence;
(e) any injury, loss or damage resulting from the offence;
(f) the degree to which the defendant has shown contrition for the offence—
  (i) by taking action to make reparation for any injury, loss or damage resulting from the offence; or
  (ii) in any other manner;
(g) if the defendant has pleaded guilty to the charge of the offence—that fact;
(h) the degree to which the defendant has cooperated in the investigation of the offence;
(i) the need to protect the community from the defendant's criminal acts;
(j) the deterrent effect any sentence under consideration may have on the defendant or other persons;
(k) the need to ensure that the defendant is adequately punished for the offence;
(l) the character, antecedents, age, means and physical and mental condition of the defendant;
(m) the rehabilitation of the defendant;
(n) the probable effect any sentence under consideration would have on dependants of the defendant;
(o) any other relevant matter.

There are of course general considerations which apply to all offences and all offenders. This bill amends the act to provide that, in circumstances which amount to a 'home invasion', as defined, the need to deter the offenders and other potential offenders from committing such crimes should be a primary consideration in setting a sentence.

In addition, the act currently sets out the circumstances in which sentences of imprisonment are warranted. It provides:

Imprisonment not to be imposed except in certain circumstances.

11. (1) A sentence of imprisonment must not be imposed for an offence unless, in the opinion of the court—

(a) the defendant has shown a tendency to violence towards other persons;
(b) the defendant is likely to commit a serious offence if allowed to go at large; or
(c) the defendant has previously been convicted of an offence punishable by imprisonment; or
(d) any other sentence would be inappropriate, having regard to the gravity or circumstances of the offence.

Again, while these considerations are very general, the section could be amended so that it is made clear that a sentence of imprisonment is appropriate where there is a 'home invasion' offence as defined. The bill attacks the problem of home invasions in a different way from the criminal trespass bill by looking to the principles which govern the imposition of the sentence for each offence and offender. One would expect that, if the bill is passed, the courts would, even more than they do now, treat 'home invasions' more seriously than other offences of a similar nature but not committed in a home.

Again, the bill signals one of the government's preferred positions. It is hoped that the publication of the discussion paper in the introduction of this and the criminal trespass bill will encourage intelligent and constructive discussion. I commend the bill to the Council and seek leave to have the detailed explanation of the clauses incorporated in *Hansard* without my reading it.

Leave granted

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 3—Interpretation

This clause inserts a new definition of home invasion offence for the purposes of the measure.

An offence is a home invasion offence if—

- the offence is—
- larceny or an offence of which larceny is an element; or
- an offence against the person; or
- an offence involving interference with, damage to, or destruction of property punishable by imprisonment for 3 years of more; and
- the offence is committed in a place of residence; and
- another person was lawfully present in the place of residence when the offender entered it and the offender knew of the other's presence or was reckless about whether anyone was present.

Clause 4: Amendment of s. 10—Matters to which a sentencing court should have regard

This amendment requires a court to make a primary consideration in determining sentence for a home invasion offence the need to deter the defendant and other persons from committing such offences.

Clause 5: Amendment of s. 11—Imprisonment not to be imposed except in certain circumstances

This amendment alters the circumstances in which a sentence of imprisonment may be imposed to ensure that such a sentence is always available in relation to a home invasion offence.

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

JOINT COMMITTEE ON TRANSPORT SAFETY ON THE DRIVER TRAINING AND TESTING INQUIRY

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I move:

That the report of the committee be noted.

Earlier in question time today I tabled the report of the Joint Committee on Transport Safety that I chair. The paper deals with the issues of driver training and testing. The committee was established on 27 May, following a motion I moved in this place. It sought to implement Liberal transport policy of September 1997. To that time, South Australia was the only parliament, bar Tasmania, that did not have a parliamentary committee, either a standing committee or a select committee, looking at road safety or transport safety issues. It was considered by this parliament to be an important initiative for us to establish such a committee.

It is quite clear when one looks at the history of road safety and legislative reform and enforcement that all the usual issues have been tackled, although the debate at the time was hardly easy whether in relation to issues such as dropping the blood alcohol limit from .08 to .05, or the compulsory wearing of seat belts, or cyclists wearing bicycle helmets, or the 'lights on' issue for motor cyclists. Even the road safety campaigns we have today for seat restraint, drink driving, speed cameras and so on encounter various levels of compliance, agreement and debate in the community, but they always generate opinion.

It was considered important that this committee should adopt an across party lines approach and look at issues of importance to the community in relation to transport safety and look at any reforms that should be undertaken to see whether we could reach agreement. Often it has been the experience of members of parliament that these committees are highly valuable entities in reaching agreement, whereas on the floor of this place it is not always easy to do so. That is why I am very pleased that this joint committee, in addition to me as Minister for Transport, comprises the shadow Minister for Transport, the Hon. Carolyn Pickles, and the Hon. Sandra Kanck as the Australian Democrat spokesperson on transport; and from the House of Assembly, the Hon. Graham Gunn, who is a very keen advocate of country perspectives—one would sometimes think they were lawless perspectives—and who has been a very reasoned force—and sometimes reasonable—in the conduct of our inquiry and I thank him, as I do Mr Tom Koutsantonis, the member for Peake, and Mr Joe Scalzi, the member for Hartley.

It has been an interesting committee because Mr Koutsantonis was able to provide the perspective of a young man on the rise and taking risks on the roads—and in lifestyle generally—while Mr Joe Scalzi was able to provide the perspective of a father taking a son, who was learning to drive, out onto the roads. These various personal perspectives were very interesting and were a good addition to the insights we gained from the 78 written submissions and 37 witnesses.

We tackled an enormous subject for our first inquiry, that is, driving training and testing, and I think that all of us would agree that it was a particularly valuable exercise but much more complex in terms of behaviours and attitudes than any of us perceived when we commenced the inquiry. One of the recommendations that we have noted is that further work should be done on the issue of attitudes. Recommendation 7 reads:

> The committee recommends that AUSTROADS be encouraged to assess matters concerning a driver's attitude as part of the competencies to drive and in road safety messages.

Some of the evidence that we received from university researchers suggested that, not only in terms of testing and training of competencies to drive but also in terms of the road safety media campaigns that we conduct from time to time, for young people in particular, certainly young males, death and dying is not a message that they readily receive because they do not see it as relevant. However, the loss of a licence is a real curb on their freedoms, their lifestyle and their self-esteem. It can prohibit them from going to work, going to sport, taking out girls and seeing their friends. We may have to be smarter in targeting our road safety messages to some of those groups to make sure that there is a better attitude towards driver training, licensing, testing and general road conduct.

The first part of the report lists the 22 recommendations. Section 3 provides what I would suggest is one of the best overviews that one would ever wish to read on the current driver training and licensing provisions that apply in South Australia. That section refers to the following matters: graduated driver licensing; learner's permit; competency-based system of driver training and assessment; vehicle on the road (VORT) practical driving test; provisional licensing; motorcycle rider licensing; heavy vehicle driver licensing; school-based driver training and road safety education; medical fitness to drive; assessment of elderly drivers; motor driving instructors; drivers from overseas countries; licence penalties; and driver training and licensing advisory bodies in this state.

Sections 4 to 7 provide a summary of evidence plus the committee's conclusions and recommendations under the headings 'Driver and rider training', 'Driver and rider testing', 'Motor driving instructors', and 'Driver licensing'. I want to refer to only a few of the 22 recommendations in the

report. Before doing so, in addition to the contribution of the members of parliament and the quality of evidence that we heard and received, I thank our secretary, Mr Chris Schwarz, our research officer, Mr Trevor Bailey, and Ms Sue Baldock, who is engaged by this parliament and who provided wonderful support to us in the formatting of the report.

It is particularly important to note reference 1.6 in the report, which reads:

> The committee notes that in discussing road safety matters, use of the term 'accident' suggests the incident concerned is not preventable. The term 'crash', however, implies that the incident could have been prevented if appropriate actions or measures had been taken beforehand. Consequently, the committee prefers the use of 'crash' rather than 'accident' when referring to occasions of road trauma.

The committee would wish that to become common currency across the community and we see this terminology as an important road safety issue and also in the education, training, testing and licensing of drivers.

South Australia has a two-tiered system of driver training and testing for novice drivers: a competency-based system and a vehicle on road testing system. These two categories are now being introduced in more states across Australia, by our territory governments and also overseas. It is interesting to note the tables provided in the report which look at the percentage of class C (car) certificates of competency issued through the competency-based training and assessment system which was introduced in 1993.

In 1993, 44.4 per cent of all age groups attained their certificates of competency using the competency-based training and assessment scheme. From the beginning in 1993, the percentage has always been much higher with women. In 1993 it was 18 per cent of men and 26.4 per cent of women. The report provides details for each year to 1999 and we find that, in the year to date, the percentage of certificates obtained by the competency-based training and assessment method has risen to 75.8 per cent. That is a very big increase from 44.4 per cent in 1993. In 1999, the percentage of certificates for males had increased to 35.3 per cent compared with 18 per cent in 1993. For women, it had increased to 40.5 per cent compared with the 1993 figure of 26.4 per cent.

One can assume that this level will continue to increase as more and more people go for the competency-based testing system, and I support such moves. However, the committee has recommended, and I agree wholeheartedly, that the two systems, the competency-based, continuous system of logbook training and assessment and the one-off testing system, should remain. However, in making such a recommendation, it is important to note that the committee is keen to see that the standards and issues which are addressed as part of the assessment and training under the two systems come closer together so that there is no reason for anybody in our community who is learning to drive to argue that it would be easier and simpler to pass the test than to go through what might seem as the more complex, expensive and time-consuming competency-based system.

I want to make a couple of comments about the vehicle on-road testing (VORT) system. This system, as the report notes on page 17, requires on average six 45-minute lessons with total costs in the region of $180, which includes the VORT test fee. The report notes that most VORT students supplement their time with instructors with unpaid supervised practice and instruction from family and friends, thus creating a much lower overall cost than the competency-based system. As noted earlier, VORT graduates professional lessons tend mostly to occur towards the end of a learner's time. In 1998 Catchpole found that the factors most often considered by learner drivers in choosing between the competency-based training and assessment scheme and the VORT system are cost and duration.

In particular, comparing the two schemes it was perceived by survey respondents as more difficult and more stressful to undertake the VORT system but less expensive in providing less overall experience. I think that it is important for the parliament, whilst supporting the two systems remaining for the future as well as the current minimum ages and periods for acquiring drivers' and riders' licences, that we continue to monitor both systems and continue to ensure, in terms of public perception and cost, that we are providing the best system overall in terms of gaining a competent driver, one who has the right attitude and appropriate competencies.

The committee brought down an interim report that was released late last session. That report addressed the road code book which, because it was out of date, we considered important to have prepared in time for the introduction of the road rules later this year, and we made some recommendations. I will not go over those today, but I am pleased to advise that Transport SA has accommodated in full the committee's earlier recommendations in terms of our interim report and the road code book. Another recommendation by the committee relates to those learner and provisional drivers who have failed to comply with the restrictions imposed on them as they learn to drive and before they gain their full licence.

These restrictions relate to maximum speed and zero blood alcohol. Some four years ago this parliament approved that when learner and provisional drivers lose their licence, either for going over the maximum speed or for having any blood alcohol reading, they must attend a driver intervention program that is held at Hampstead. We have not ever applied this program to country areas and at this stage it is not recommended by the committee that we do so. However, the committee did express concern that, of the 4 000 young South Australian drivers a year on learner and provisional certificates who are losing their licences—and I think this is far too high—only 60 per cent are actually turning up to the driver intervention program, therefore the committee has recommended much stiffer penalties for people who fail to attend, as an encouragement for them to do so.

It is certainly in their best interests and the best interests of the community. It addresses the attitudinal issues that I alluded to before, and it is unfortunate that, notwithstanding their knowledge of the rules and the fact that this is a new experience, and notwithstanding the fact that they do not have the skills and wisdom of most people who have been driving for longer, a large number of young people—and principally it is young people who have lost their provisional driver's licence—are refusing to turn up for these courses. Penalty, therefore, is one approach that we have taken. I am very keen to monitor the success of that, following legislation that I will introduce promptly into this parliament arising from the committee's recommendations.

The committee addressed education in schools at some considerable length. We noted an initiative last year by the Education Department and Transport SA to introduce a road ready kit for primary school teachers to use in class. That is now to be extended to senior schools with appropriate curricula. The police also have a very long history of education in schools. Their program was assessed last year, I believe, by the University of South Australia, and the

committee has expressed some concern that resources have not necessarily been applied to assist the police to implement the recommendations that have been made by the University of South Australia—recommendations that the committee generally endorsed in full.

We believe that there is a need for a strong and healthy and respected relationship between police road safety driver training and testing and these approaches being undertaken in schools, but we are concerned that, unless the University of South Australia recommendations are pursued with some vigour by the police, with the appropriate resources, many opportunities to improve driver training, testing and attitudes from a younger age will be lost in South Australia.

In terms of older drivers, the committee devoted a lot of time to hearing evidence and pondering our recommendations. We noted that Austroads has engaged Monash University Accident Research Centre to review the current older driving assessment practices in South Australia. Notwithstanding that review, which of course we look forward with interest to receiving, we have made a number of recommendations. With our ageing population there is concern about health issues and dementia, particularly the early stages of dementia, and whether people with such health conditions should be driving. Most of us would argue no, but we are very concerned about how one assesses these conditions and also about the impact on older people's life when they are told that they must surrender their licence.

Many fear that they will lose their independence and will be confined to home. We have a series of recommendations that asks the government to look at how the transport subsidy scheme in South Australia could be extended to cover people who are no longer registered to drive because of a dementia condition. We have also recommended that the government examine the development of transport support measures to help drivers retain their independence when required to surrender their driver's licence. These measures might be volunteer drivers; they might be support getting to the shops, to the local community centre and to friends; but it also may be home help in a whole variety of ways.

The committee has recommended, in terms of motor driving instructors, that the government should pursue strengthening the current system of audits. Concern was expressed to us, and we share that concern, that people seeking to purchase training and instruction have been shopping around to find the easiest way that they can pass their test with the least number of dollars and the least amount of time. In the youth network in particular, with such word of mouth and shopping around, the message gets out quickly. This is not good for maintaining standards amongst driving instructors, and it is certainly not a good outcome for the young person training or for road users in general.

We received a lot of evidence from driving instructors who were very keen to promote advanced skill based driving techniques as part of the competency based or testing system. The committee has not supported those recommendations, and we have done so because of other evidence from this state and overseas which suggests very strongly that advanced learning skills at an age where one may not have the right attitude or may have only a few years experience can give a young driver or any driver a false sense of confidence and can be more dangerous than helpful as regards driving on the roads in a safe manner.

In terms of motor driving instructors, the committee has recommended what I think is an important change which requires an amendment to section 75A(5aa) of the Motor Vehicles Act to permit learners to drive in South Australia at speeds of up to 100 kilometres per hour on roads zoned at that speed limit, but only under the supervision of a licensed motor driving instructor in a marked driving school vehicle fitted with dual driver controls. We did discuss why, if such a measure was important, it could not be a family member or another licensed driver with the learner at the time.

The whole point of this is that the driving instructor is skilled and accredited. Also, with dual driver controls, if the younger driver got out of control the driving instructor has controls at hand and it would be safer for all concerned. Transport SA has been asked by the committee to investigate replacing the current 250 millilitre engine capacity restriction applying to novice motorcyclists with a variety of criteria, including motorcycle power ratio, as a means to promote novice rider safety. I undertake that Transport SA will investigate that matter and report back to the committee and, if appropriate, this parliament, in case change is needed.

I would like to raise only one other matter: recommendation 21, which is an area that has been of interest to me for some time. The committee in its wisdom has decided that 'no action be taken in this state at this time on the matter of automatic transmission endorsements on class C (car driver) licences.' In other states the provisional driver, becoming a full driver, has endorsed on their driving licence whether they have been trained and tested as competent to drive a manual and/or an automatic transmission vehicle. I have a very strong view that learning to drive in a manual vehicle gives a person a much better sense of that vehicle and its strengths, a knowledge of driving and the capacity of the vehicle and of the driver.

Because we do not have these separate endorsements, it is interesting in South Australia to see the much higher rate of people going for their licence in South Australia both through competency based and testing systems using an automatic transmission vehicle. They believe it is easier for them to pass their driving test and obtain a licence in an automatic car, and then they are licensed to drive both types of vehicles in South Australia. In all other states that is not permissible. I accept, however, that at this time the committee does not recommend change, and I will continue to take an interest in the figures and statistics in relation to this matter.

Again, I thank all members for their willing participation at meeting times, for cooperatively working with other members and the staff of the committee, and for questioning witnesses thoroughly and with courtesy. I think we have come down with a broad set of recommendations which will see that we maintain an even better system of competency based testing amongst drivers in South Australia. I acknowledge, however, in terms of the issue of elderly drivers, that more work must be done in this area, and I assure members that we will be sensitive to change.

We have also recommended at this stage that no penalties apply to general practitioners who do not report an older person with a medical condition to the registrar for the removal of a licence. However, we have recommended strongly—and the Coroner has done so also following a recent accident—that general practitioners be provided with more advice and assistance to detect and report on medical fitness to drive. The committee believes that, if we do not see a change in attitude and practice here, it would be prepared to consider penalties for medical practitioners who do not report medical fitness issues, just as in the past the South Australian parliament has provided for a penalty to be applied to medical practitioners who do not report suspected abuse.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I intend to make some general comments. I understand that the Hon. Sandra Kanck does not wish to address the report today, so I will seek leave to conclude my remarks on the next day of sitting. I would like to thank all members who served on the committee; and I thank the support staff—Mr Trevor Bailey, whose excellent research skills, patience and quite good humour served the committee well; Mr Chris Schwarz, secretary to the committee; and Sue Baldock, who provided the back-up and prepared the report.

The committee was initially set up to look at issues to do with road safety in South Australia on an ongoing basis. The minister originally looked at setting up a parliamentary committee, as has occurred in other states. We chose not to go along that path in this state, and we saved the government a lot of expense by doing so. At some stage we will look at not reimbursing ourselves as members of parliament but perhaps getting more research and secretarial back-up. I think that is something that we might take up at some stage with the government.

The committee was a very varied one. The Hon. Diana Laidlaw, Minister for Transport, was chairperson of the committee. The Hon. Graham Gunn was on the committee. His electorate covers a huge part of South Australia and he was not on all occasions, due to his many and varied electoral duties, able to attend all the meetings, but in the end he strongly supported the recommendations of the committee. The Hon. Sandra Kanck, who deals with transport issues for the Australian Democrats, was on the committee. Also, there was my colleague Mr Tom Koutsantonis, the member for Peake, who strongly supports the recommendations of the report. He was a valuable asset to the committee, giving a different perspective sometimes; but I think it is good to have a different perspective, as did the Hon. Graham Gunn and Mr Joe Scalzi, who also gave us some insight with his background in teaching. I think it was very important to hear his views about attitudinal change.

By and large, I think that select committees of the parliament can serve a very useful purpose, and I certainly want to support the ongoing work of this committee in serving a very valuable purpose for the parliament, because I think that people come on to the committee with a lot of preconceived ideas about a lot of issues. They find that transport issues are very complex, which is something that I have discovered since I have been shadow minister for transport. Everyone wants to be an immediate expert on issues to do with transport. It is very useful to have expert opinion and to get some kind of accommodation about where we can go as a parliament, across all parties. I think we are all working in the same way to try to improve driver safety in South Australia, if not the whole of Australia.

I think we all recognise that we do have a lot of problems here with the kind of attitudes that drivers have developed over the years. Earlier in parliamentary debate the minister indicated, in response to another issue, that the government will be issuing to all households the whole new national road rules, and for the first time probably in some people's lives they will actually be able to look at what are the rules pertaining to driving. I know that they are something that someone who might have been driving for 40 years may have forgotten. Certainly, when one goes around the city and country areas it is quite obvious that a lot of people have forgotten what those road rules are. In many instances the committee was quite surprised to learn what some of the road rules actually are. So none of us is perfect and I think generally we need a complete reinforcement.

We were particularly concerned about learner drivers, although I must say that I think the general theme that came through was the whole attitude to driving, the attitude to other people. I guess it is a communication thing, that a lot of people are very impatient when they get behind the wheel of a car. Quite sensible, rational people suddenly become road rage maniacs when they get behind the wheel of a car. These matters concern us. Attitudinal change is something that is very difficult. We can legislate as much as we like to try to protect people, but it is very hard to legislate for attitudinal change. So that is an ongoing task for the committee, for the whole of the parliament and for government, whatever its political persuasion. I think it is something that we can all learn together.

It is very interesting to note that some of the issues that we deal with in this particular report have not been dealt with for a long time. I think we are all very grateful that we have had the opportunity to have some very expert opinions. I think that every one of us, no matter where we come from in the political spectrum, will recognise that none of us is an expert in the whole area of driver training and in actually driving on the roads in South Australia and interstate. We are all trying to move towards some kind of national consistency in everything connected with transportation and connected with driver safety. I think that is a very good thing.

I have often been quite puzzled as to why a country like Australia has all these different laws relating to something like driving, that is so obvious. Most people do drive interstate and the rules change from state to state. We are now moving to a more consistent pattern and, hopefully, we will move to a consistent pattern somewhere down the track on driver training, although in South Australia we have had a dual system, which we have looked at very carefully. We have recommended quite strongly that the dual system should continue, although we recognise that there needs to be more consistency between the two systems. So, I believe that the recommendations and the observations that the committee has made are very valuable in this respect.

I would like very briefly to refer to the issue that we found very difficult to deal with, and that was medical fitness to drive. The evidence that we received was quite significant, and quite worrying. I do not think any one member of the committee has an ageist view, but we are concerned, and families are concerned, too, that there are many people who still retain a driving licence who should not be driving. The issue before us is how we tackle this in a sensitive way, recognising that there are problems but also stressing to the medical profession that they have a very serious responsibility in this respect, which the committee was not quite satisfied was being adhered to.

The Hon. T.G. Roberts: A driving test in the supermarket car park is what we should have.

The Hon. Diana Laidlaw interjecting:

The Hon. CAROLYN PICKLES: It is a bit of a worry. In recommendation 12 we stress that at this time we would not proceed to having a penalty for medical personnel who fail to report unfit drivers, but that the government will monitor the progress. Under the act that deals with sexual abuse of children there is a mandatory reporting system and there is a penalty attached to that, and I think the committee felt that, in relation to some drivers who should not be driving and whose medical practitioners do not report that they are

unfit to drive, if we cannot modify their behaviour, too, we may have to revisit this and look at a penalty.

We were very much influenced by the report of the Coroner in relation to a recent accident, and certainly it has been my personal experience in a minor altercation in a car park—not me personally but when I was driving with somebody—that the other driver was certainly not fit to drive. Unfortunately, when it was reported to the police, the police said, 'Well what can we do about it? I guess that is a response from the police that sometimes we get a little bit sick of.

We have approved this report only today and, although we have been sitting for many months on this whole issue, I do not wish to dwell on it in any detail. However, we will certainly make further remarks at a later sitting of parliament. Again, I would like to stress that this is a unanimous report of all members of the committee, who sat over many months and deliberated on these issues, and sometimes we had quite spirited debates. However, it is a credit to all members of the committee that we put behind us our differences and drew together to provide a unanimous report. The great strength of some select committees is that they can do that. It is a cross-party committee and we all recognise that governments change from time to time.

As transport is an issue that involves a very long time frame, the decisions of the government of this day will have to be dealt with somewhere down the track by a government that may be of a different political persuasion. It is important that we all understand where we are coming from, and it is a credit to the members of the committee that they all worked well together and that the Minister for Transport who chaired the committee maintained her sense of humour at all times, as did committee members. I would like to thank all honourable members and the people who were involved in the committee, particularly our research person, Mr Trevor Bailey. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

OFFSHORE MINERALS BILL

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

That the Offshore Minerals Bill be restored to the *Notice Paper* as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

MINING (PRIVATE MINES) AMENDMENT BILL

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

That the Mining (Private Mines) Amendment Bill be restored to the Notice Paper as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PENALTIES) AMENDMENT BILL

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

That the Occupational Health, Safety and Welfare (Penalties) Amendment Bill be restored to the Notice Paper as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

STATUTES AMENDMENT (ELECTRICITY) BILL

The Hon. K.T. GRIFFIN, for the Hon. R.I. Lucas (Treasurer), obtained leave and introduced a bill for an act to amend the Electricity Act 1996, the Electricity Corporations Act 1994 and the Electricity Corporations (Restructuring and Disposal) Act 1999. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

The Statutes Amendment (Electricity) Bill makes amendments to the *Electricity Act 1996*, the *Electricity Corporations Act 1994* and the *Electricity Corporations (Restructuring and Disposal) Act 1999*.

The *Electricity Act* provides that an electricity pricing order issued by the Treasurer cannot be varied or revoked. However, it is possible that the electricity pricing order that has been issued will need to be amended, for example to address any conditions that the Australian Competition and Consumer Commission may impose as part of the process of authorising certain South Australian derogations to the National Electricity Code. It is for this reason that the electricity pricing order contains a provision that permits the Independent Industry Regulator to make such amendments prior to 8 November 1999. The Bill therefore amends the *Electricity Act* to permit the electricity pricing order to be varied in accordance with its terms and deems this amendment to have come into operation on 11 October 1999 (which is the date on which the electricity pricing order provisions of the *Electricity Act* came into operation).

The Bill amends the *Electricity Corporations Act*. The *Electricity Corporations Act* provides for the establishment of ETSA Corporation (which has conferred on it electricity distribution, transmission and system control functions) and SA Generation Corporation (which has conferred on it electricity generation functions). These corporations hold various assets and liabilities which will not be transferred to purchasers in the privatisation process, either because there is a legal impediment to their transfer or because the Government has made a decision that they should be retained in State ownership (eg. because a particular liability can be better managed by the State than by a purchaser). In addition, ETSA Corporation is, and will continue to be, the parent corporation of the State's electricity transmission business (ETSA Transmission Corporation). Conversely, the shares which SA Generation Corporation holds in the State's electricity generation businesses (Flinders Power Pty Ltd, Optima Energy Pty Ltd and Synergen Pty Ltd) and in the State's gas trading business (Terra Gas trader Pty Ltd) will soon be transferred to the Treasurer and will cease to be held by SA Generation Corporation.

The amendments made by the Bill to the *Electricity Corporations Act* enable SA Generation Corporation to authorise another body to exercise its powers to mine coal and other substances at or near Leigh Creek and to dispose of the coal and other substances. The Bill also amends the *Electricity Corporations Act* to provide for the possible abolition in the future of SA Generation Corporation and accordingly provides for the repeal of those provisions of that Act that relate to SA Generation Corporation. It might be desirable to abolish SA Generation Corporation if it ceases to hold any assets or liabilities. However, if SA Generation Corporation is not abolished, it might be converted into a Corporations Law company under the *Electricity Corporations (Restructuring and Disposal) Act* and sold. In that event, the Bill provides for the repeal of those provisions of the Act that relate to SA Generation Corporation, except that the converted entity will continue to have the power to mine coal and other substances at or near Leigh Creek and to dispose of the coal and other substances.

In addition, the Bill amends the *Electricity Corporations Act* to provide for the name of ETSA Corporation to be changed to RESI Corporation. The purpose of this is to allow the ETSA name (which is a valuable asset) to be used exclusively by the privatised electricity retail business.

As a result of these changes, consequential amendments are also made to the *Electricity Corporations (Restructuring and Disposal) Act*.

The final Act that the Bill amends is the *Electricity Corporations (Restructuring and Disposal) Act*. The Bill amends the definition of 'prescribed electricity assets' in this Act so that it excludes land under or over which there is a powerline. Prescribed electricity assets cannot be sold by the State as part of the privatisation process, although they can be leased. In the absence of this amendment, the strip of land which lies under the connection lines that convey electricity from the distribution network on Anzac Highway to the

ETSA Headquarters building would not be able to be sold. This is an unintended and anomalous consequence because the remainder of the land on which the ETSA Headquarters building is located can be sold. A similar situation exists wherever there are powerlines which supply electricity to ETSA depots and which pass over land that is owned by ETSA. However, the amount of land which would be affected by this amendment is small. This is because most powerlines are situated above or under land (such as footpaths or roads) owned by councils or above or under easements over private land. This land could not, in any event, be sold as part of the privatisation process.

Section 35 of the *Electricity Corporations (Restructuring and Disposal) Act* provides that:

> 'If a lease is granted in respect of assets by a sale/lease agreement, the lessor and the Crown will, despite any other Act or law, be immune from civil or criminal liability (other than a liability under the lease to the lessee) to the extent specified by the Governor by proclamation made on or before the date of the sale/lease agreement'.

The Bill replaces this provision with a new provision that applies not only to a lease that is granted by a sale/lease agreement but also to a lease that is granted by a transfer order. This new provision also enables the relevant proclamation to be amended at any time with the consent of the lessee. This is intended to allow the proclamation to be amended over time in a way that does not prejudice the lessee's interests (at least without the lessee's consent).

In addition, the Bill deems all building and development work carried out before 30 September 1999 in relation to substations and transformers owned or operated by the State's electricity businesses at that date to have complied with the statutory and regulatory requirements applicable at the time that work was carried out. This provision is necessary because due diligence investigations have suggested that approximately one-fifth of the substations that are operated by the distribution business may not have been granted the necessary development approval for their land use. Furthermore, it appears that a number of substations and transformers used in the distribution business may not have been granted necessary development approval for their construction. The apparent failure to obtain these approvals has occurred in relation to substations and transformers that have been constructed over a long period of time (at least since 1966) in a variety of locations.

The Bill also makes amendments to the superannuation-related provisions of the *Electricity Corporations (Restructuring and Disposal) Act*. In particular, these amendments provide for a 'gas trading company' to be treated as an 'employer' for the purposes of these provisions. A gas trading company is defined to include the current State gas trading business (Terra Gas trader Pty Ltd) as well as a body declared by proclamation which carries on the business of trading in gas or which employs persons in (or in relation to) the business of trading in gas. This definition is necessary because it is not possible to generically refer to successors to the business of Terra Gas trader Pty Ltd (such as a purchaser of its assets) in a way that exhaustively encompasses all possible future employers of the employees who are engaged in the gas trading business. Moreover, these amendments are necessary because the State's gas trading business does not operate in the electricity supply industry—that is, the industry involved in generation, transmission, distribution, supply or sale of electricity. As a result of these amendments, the superannuation entitlements of those employees of that business who are members of the ETSA Superannuation Scheme receive the same protection as that which is extended to the entitlements of employees of the State's electricity businesses who are members of the ETSA Superannuation Scheme.

Clause 14(2) of the new Schedule 1 to be inserted in the *Electricity Corporations Act* (pursuant to Part 2 of Schedule 3 to the *Electricity Corporations (Restructuring and Disposal) Act*) provides that, where the employment of a member is transferred by an 'employee transfer order' under the *Electricity Corporations (Restructuring and Disposal) Act* from an electricity corporation or a State-owned company to a purchaser under a sale/lease agreement, then the purchaser is liable, within a period of 5 years, to fund the unfunded liability in respect of that member's entitlement to benefits that accrued before the member's transfer of employment. This provision will bind an employer who takes over employees transferred under an 'employee transfer order' (ie. where the relevant electricity business is privatised by way of an asset sale), but it will not bind an electricity corporation or State-owned company where the electricity business it conducts is privatised by way of the sale of shares in that company. This is because, in the latter case, there will be no employee transfer order in relation to the employees of that business.

The Bill therefore amends clause 14 so that it also binds a former electricity corporation or State-owned company, the shares in which are sold to a purchaser, to funding within 5 years the unfunded superannuation liability relating to the employees of the business conducted by that entity as at the time of its privatisation.

Finally, the Bill makes certain technical amendments to the provisions of the *Electricity Corporations Act* and the *Electricity Corporations (Restructuring and Disposal) Act* that relate to the statutory easements granted under those Acts. By virtue of these amendments the body which has the benefit of such a statutory easement can suspend or limit rights, or impose conditions on the exercise of rights, arising under the easement. In addition that body can surrender all or part of the easement. The Bill also provides for the later statutory easement to apply to the exclusion of the earlier statutory easement and enables easements that are granted under the *Electricity Corporations (Restructuring and Disposal) Act* to be granted to more than one body. These amendments will provide the flexibility necessary to accommodate a range of operating or financing structures.

This Bill will further facilitate the privatisation of the State's electricity businesses and I commend it to members.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

These clauses are formal.

PART 2

AMENDMENT OF ELECTRICITY ACT 1996

Clause 4: Amendment of s. 35B—Initial electricity pricing order by Treasurer

The amendment recognises that the initial electricity pricing order made by the Treasurer may be varied to the limited extent contemplated by the order. This amendment is to be taken to have come into operation on 11 October 1999 (the date when section 35B came into operation).

PART 3

AMENDMENT OF ELECTRICITY CORPORATIONS ACT 1994

Clause 5: Amendment of s. 4—Interpretation

Paragraphs *(a)* and *(c)* are consequential on the change of name of ETSA Corporation to RESI Corporation.

Paragraphs *(b)* and *(d)* remove references to SAGC being an electricity corporation and will be brought into operation if SAGC is converted into a company under the *Corporations Law* or abolished.

Clause 6: Repeal of s. 5

Section 5 defines electricity generation functions for the purposes of SAGC. Its repeal will be brought into operation if SAGC is converted into a company under the *Corporations Law* or abolished.

Clause 7: Amendment of Part 2 to substitute RESI for ETSA

Clause 8: Amendment of s. 8—ETSA to continue as RESI

Clause 9: Amendment of s. 14—Establishment of Board

These amendments deal with the change of name from ETSA Corporation to RESI Corporation.

Clause 10: Repeal of Part 3

Part 3 established SAGC. Its repeal will be brought into operation if SAGC is converted into a company under the *Corporations Law* or abolished.

Clause 11: Amendment of s. 34—Establishment of corporation

This amendment is consequential on the change of name of ETSA Corporation to RESI Corporation.

Clause 12: Amendment of s. 48—Mining at Leigh Creek

The first amendment enables SAGC to authorise another body to exercise all or any of the powers conferred on SAGC under the section. This amendment is to come into operation on assent.

The second amendment inserts a new definition of SAGC to reflect its conversion to a Corporations Law company. This amendment will be brought into operation if that course of action is followed.

The third amendment removes the provisions of section 48 relating to SAGC. This amendment will be brought into operation if SAGC is abolished.

The second and third amendments are alternatives depending on the course of action chosen. Consequently, provisions are included

to ensure that if one amendment comes into operation the other will not come into operation.

Clause 13: Amendment of Sched. 2—Repeal and Transitional Provisions

This amendment allows an electricity corporation to modify or surrender the statutory easement under clause 5 of Schedule 2 in relation to electricity infrastructure existing as at 1 November 1988.

PART 4

AMENDMENT OF ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) ACT 1999

Clause 14: Amendment of s. 3—Interpretation

Paragraphs *(a)* and *(c)* are consequential on the change of name of ETSA Corporation to RESI Corporation.

Paragraph *(b)* removes reference to SAGC being an electricity corporation and will be brought into operation if SAGC is converted into a company under the *Corporations Law* or abolished.

Clause 15: Amendment of s. 13—Disposal of electricity assets and limitations on disposal

The amendment removes land under powerlines from the definition of prescribed electricity assets. This will enable appropriate land owned by an electricity corporation to be sold. The prohibition on sale of the powerlines themselves will remain.

Clause 16: Substitution of s. 35—Exclusion of Crown liability as owner, etc., of leased assets

The substitution of this provision ensures that it applies in relation to assets leased to a State-owned company that is subsequently sold, as well as to assets leased to a purchaser under a sale-lease agreement. The substituted provision also contemplates variation or revocation of a proclamation excluding the Crown's liability, with the consent of the lessee of the assets.

Clause 17: Amendment of Sched. 1—Special Provisions

Clause 2 of the Schedule creating a statutory easement in relation to electricity infrastructure in existence at the date of a proclamation under the clause is amended—

- so that if an electricity corporation is to have a statutory easement under the clause it will take the place of the statutory easement under clause 5 of Schedule 2 of the *Electricity Corporations Act*;
- to enable a body that has the benefit of a statutory easement under the clause to modify or surrender the easement by instrument in writing;
- to make it clear that more than one body may have an easement under the clause over the same land or in relation to the same electricity infrastructure. (For example a transmission entity and a distribution entity may need to carry out work in relation to different aspects of the same infrastructure.)

A new clause 2A is inserted so that all building and development work carried out before 30 September 1999 in relation to substations or transformers owned or operated by an electricity corporation or State-owned company at that date will be regarded as complying with the statutory and regulatory requirements applicable at the time the work was carried out.

Clause 18: Amendment of Part 2 of Sched. 3—Substitution of Schedule 1 of Electricity Corporations Act 1994

Paragraph *(a)* of this clause includes in the definition of 'employer' a gas trading company that employs a pre-privatisation member or any other member of the Superannuation Scheme. A small part of ETSA's operation was trading in natural gas. This is now undertaken by a State-owned company called Terra Gas trader Pty Ltd. The employees of Terra Gas trader Pty Ltd are not employed in the electricity supply industry but are just as entitled to be protected for superannuation purposes as any other former employee of ETSA. It is therefore necessary to define their employer as an employer for the purposes of the Schedule. Paragraph *(b)* defines 'gas trading company' to be Terra Gas trader Pty Ltd or any other body that trades in gas or who employs persons in trading in gas and that has been declared by proclamation to be included in the definition. It is important to include the successors to the business of Terra Gas trader Pty Ltd but because the circumstances of succession can be so varied and impossible to predict it is necessary to do this by proclamation.

Paragraph *(c)* makes a consequential change.

Paragraph *(d)* inserts a new subclause (2a) into clause 14 of the Schedule. Subclause (2) provides for the situation where the electricity business and employees of an electricity corporation or State-owned company are transferred to a purchaser. New subclause (2a) provides for the case where the same objective is achieved by transferring the shares of the electricity corporation or State-owned company. New subclauses (3) and (4) make consequential changes.

Paragraphs *(e)* and *(f)* make changes to the Trust Deed corresponding to the changes made by paragraphs *(a)* and *(b)*.

Paragraphs *(g)* and *(h)* make consequential changes to clause 17 of the Trust Deed.

Clause 19: Amendment of Part 4 of Sched. 3—Amendment of Schedule 1 of the Electricity Corporations Act 1994

This clause corrects two cross references.

Clause 20: Amendment of Sched. 4—Related Amendments

This clause strikes out the amendments enabling downsizing of the Board of SAGC and will be brought into operation if SAGC is converted into a company under the *Corporations Law* or abolished.

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

LOCAL GOVERNMENT (IMPLEMENTATION) BILL

Adjourned debated on second reading.

(Continued from 26 October. Page 222.)

The Hon. T.G. ROBERTS: The opposition supports the passage of this bill. As I understand it, there are no controversial issues in it. There has been broad consultation and, in the spirit of cooperation and trying to get through by a reasonable hour, the opposition supports the bill without too much debate.

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

A quorum having been formed:

The Hon. IAN GILFILLAN: I indicate that the Democrats will support the second reading and, in fact, the bill's passage through the parliament. I have been assured by the minister's office that this bill contains only non-contentious implementation provisions which were previously part of the Statutes Repeal and Amendment (Local Government) Bill 1999. Members may recall that that bill was passed by the Legislative Council at the end of the budget session; however, the formal bill contained contentious provisions about road reopenings, among other things, which are now absent from the bill before us.

It appears to me that the bill before us does contain no more than the sort of technical provisions we would expect to see when such a large and important act as the Local Government Act 1934 is being replaced with the bill with which we dealt in the last session, and with the transitional processes required to move from one generation of local government legislation to the new. On that basis, as I said earlier, the Democrats are happy to assist the process and give local government in this state the certainty that it needs to plan for the commencement of the new act on 1 January 2000. We support the bill.

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

LIQUOR LICENSING (REGULATED PREMISES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 October. Page 169.)

The Hon. CARMEL ZOLLO: The opposition supports this legislation. The bill seeks to correct some unintended interpretations with regard to the consumption of liquor on regulated premises as well as providing for the exemption of certain regulated premises for special occasions. As is

sometimes the case, after an act has been in place, even for a short time, certain amendments become necessary to ensure that the act is interpreted in the manner in which it was intended. The proposed amendments that are before us today are just such a case.

The amendments seek to clarify the definition of regulated premises which, when looking at the original intent, was to include public conveyances, such as a bus, tram, train, plane or other vehicles used for public transport or available for hire by members of the public. It appears that a problem has emerged in that this definition catches more premises than originally intended which, as the Attorney-General points out, was also to regulate conveyances, such as the so-called 'booze buses'. But the definition seems to have also caught self-drive vehicles, such as rental cars, minibuses and even houseboats. I recollect that the Hon. Ron Roberts raised just such an issue earlier this year in Port Pirie in respect of one of the football clubs.

In relation to self-drive vehicles, the Law Society raised with the opposition the fact that the definition is less important than the private nature of the function in the conveyance. For example, if one were to hire an eight seater minibus for the exclusive use of oneself and a group of family and friends and the bus came with a driver, there should be no reason to prohibit the consumption of BYO liquor on the minibus. Perhaps the Attorney will comment on his understanding of this clause and whether or not the issue is one of self-drive or whether it is a private or public function in relation to public conveyances.

The other aspect of this bill deals with entry to public places at which a fee is charged to gain admission. A common example would be consumption of liquor at a football match; this usually involves a public venue, such as a stadium at which a fee is paid to attend an event. However, as the definition now stands, it appears also to include venues at which no specific organised event is occurring: the example raised by the Attorney-General is that of Belair National Park at which an entry fee is now paid. Obviously it was not the intention of the original legislation to include such situations. Such recreational circumstances could technically prohibit family picnics, and the like. That would certainly be unacceptable and, of course, was never the intention. This amendment therefore seeks to change the definition so as to place the emphasis on the payment of a fee to attend an event rather than admission to the venue itself.

I understand that another issue was raised with the opposition in relation to limited licence (clause 3), to which the Attorney-General may also care to respond in committee. That clause relates to the use of the word 'or'. It has been suggested that such a limited licence should permit a combination of sale, supply and consumption of liquor on regulated premises rather than one or the other. At present, this amendment would permit the sale, supply or consumption of liquor, and the limited licence should be sufficiently flexible to cover as wide a range of activities as possible. As indicated, the opposition supports the second reading.

The Hon. SANDRA KANCK secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION (APPEALS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 October. Page 169.)

The Hon. T.G. CAMERON: In 1995 the government introduced the Criminal Law Consolidation (Appeals) Amendment Bill to give the Director of Public Prosecutions a right of appeal against a decision by a judge to acquit a person charged with a serious offence. The purpose of the bill was to ensure that serious errors of a judge did not allow an alleged offender to escape justice.

At that time both the Labor Party and the Democrats refused to pass the legislation. The government has decided to reintroduce the bill. The government has argued that because a judge has made a mistake it does not mean the mistake should not be rectified. This bill gives the Crown the right of appeal against a decision by a judge to acquit an offender and thus provide a check on a judge's decision. It provides that the court on hearing an appeal against an acquittal by judge alone can dismiss the appeal or allow the appeal and order a new trial. The new provisions will apply only after the amendments have come into operation.

The Criminal Law Committee of the Law Society opposes the bill for a number of reasons, but there is no guidance within the bill itself as to the circumstances that may be invoked. There is no guidance as to the test to be applied before the appeal is allowed. Section 353(2a) assumes there is only one count being considered. If the court allows the appeal, it seems obligated to direct a new trial. The director should be limited to one appeal against the acquittal of an accused on a particular charge. If an accused is acquitted a second time, that should be able to be challenged.

My understanding is that both Labor and the Democrats oppose the bill. Labor believes that the bill challenges basic principles of common law, that is, an accused should not be tried twice for the same offence. Retention of the status quo provides a proper and adequate balance between the interests of the prosecution and those it decides to prosecute. SA First will support the second reading of this bill.

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

STATUTES AMENDMENT (VISITING MEDICAL OFFICERS SUPERANNUATION) BILL

The Hon. K.T. GRIFFIN (Attorney-General), on behalf of the Hon. R.I. Lucas (Treasurer), obtained leave and introduced a bill for an act to amend the Southern State Superannuation Act 1994 and the Superannuation (Visiting Medical Officers) Act 1993. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

This bill seeks to make amendments to the *Superannuation (Visiting Medical Officers) Act 1993*, and the *Southern State Superannuation Act 1994*.

The *Superannuation (Visiting Medical Officers) Act* provides that newly appointed Visiting Medical Specialists are members of the SAHC Visiting Medical Officers' Superannuation Fund, unless they have been accepted as a contributor to a scheme established under the *Superannuation Act 1988*.

However, the schemes established under the *Superannuation Act* are closed to new entrants.

This means that newly appointed Visiting Medical Specialists have no Government superannuation scheme available as an alternative to the SAHC Visiting Medical Officers' Superannuation Fund.

The aim of the amendments proposed in this Bill is to provide eligibility for Visiting Medical Specialists to join the Triple S Scheme, established under the Southern State *Superannuation Act*.

The amendments also provide that if prior to appointment as a Visiting Medical Specialist, the person was already a contributor to one of the schemes established under the *Superannuation Act 1988*, the person may remain a contributor.

The amendments will maintain the expectation of some Visiting Medical Specialists, that a Government superannuation scheme be available to them to join.

The Department of Human Services and the South Australian Salaried Medical Officer's Association have been fully consulted, and have indicated their support for the amendments.

I commend this bill to honourable members.

Explanation of Clauses

Clauses 1 and 2
These clauses are formal.

Clause 3: Interpretation
This clause is an interpretative provision.

Clause 4: Insertion of s. 15A
This clause inserts new section 15A into the *Southern State Superannuation Act 1994*. This section enables a visiting medical officer to elect to become a member of the Triple S scheme.

*Clause 5: Amendment of s. 3—Interpretation*This clause adds definitions to section 3 of the *Superannuation (Visiting Medical Officers) Act 1993*.

Clause 6: Substitution of s. 4
This clause replaces section 4 of the *Superannuation (Visiting Medical Officers) Act 1993* with two new sections. New section 4 provides for membership of the VMO Fund (the S.A.H.C. Visiting Medical Officers Superannuation Fund is referred to in the Act as the 'VMO Fund'). New section 4A provides that a visiting medical officer who becomes a member of the Triple S scheme cannot continue to make contributions to the VMO Fund.

Clause 7: Substitution of s. 6
This clause replaces section 6 of the *Superannuation (Visiting Medical Officers) Act 1993*. The new section enables a visiting medical officer who is a member of the pension or lump sum schemes under the *Superannuation Act 1998* or a member of the Triple S scheme to become a member of the VMO Fund.

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

ADJOURNMENT

At 5.01 p.m. the Council adjourned until Tuesday 9 November at 2.15 p.m.