LEGISLATIVE COUNCIL

Thursday 7 June 2001

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

RECONCILIATION FERRY

A petition signed by 30 residents of South Australia, concerning the reconciliation ferry proposal, and praying that this Council will provide its full support to the ferry location proposal and prioritise the ferry service on its merits as a transport, tourism, reconciliation, regional development and employment project and calling for the urgent support of the Premier requesting that he engage, as soon as possible, in discussions with the Ngarrindjeri community to see this exciting and creative initiative become reality, was presented by the Hon. Sandra Kanck.

Petition received.

RADIOACTIVE WASTE

A petition signed by 10 residents of South Australia, concerning the transport and storage of radioactive waste in South Australia, and praying that this Council will do all in its power to ensure that South Australia does not become the dumping ground for Australia's or the world's nuclear waste, was presented by the Hon. Sandra Kanck.

Petition received.

GENETICALLY MODIFIED FOOD

A petition signed by 66 residents of South Australia, concerning the use of GMOs, and praying that this Council will do all in its power to impose a moratorium on the introduction of GMOs to the South Australian environment, therefore protecting the people of this State from the possible harmful effects such modifications may have in the long term, was presented by the Hon. Ian Gilfillan.

Petition received.

PARKLANDS

A petition signed by 12 residents of South Australia, concerning the City of Adelaide (Adelaide Parklands) Amendment Bill 2000 and praying that this Council will protect the parklands by stopping the erection of buildings and other structures on the parklands by rejecting the City of Adelaide (Adelaide Parklands) Amendment Bill 2000, was presented by the Hon. Ian Gilfillan.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

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

Regulations under the following Acts—

Mines and works Inspection Act 1920—Application, Other Fees

Mining Act 1971—Licences, Other Fees

Opal Mining Act 1995—Permit, Other Fees.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. J.S.L. DAWKINS laid on the table the report of the committee concerning urban tree protection.

JUSTICES OF THE PEACE

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of justices of the peace.

Leave granted.

The Hon. K.T. GRIFFIN: Since the appointment of the first justice of the peace in South Australia, there have been many changes to the administration of justice. These changes have meant that the role of justices of the peace has changed significantly. However, it does not overlook the fact that justices of the peace take a leading role in our society and give a significant amount of time voluntarily. I thank them for that. It is important that consideration be given to the contemporary and future roles of justices of the peace.

For this purpose, I requested the Justice Strategy Unit in my department to review the role of justices of the peace in South Australia. In particular, I asked the Justice Strategy Unit to examine the selection, support, training and administration of justices of the peace in their future role. In so doing, I also emphasised that appropriate recognition should be given to the voluntary and community service nature of the role of justices of the peace.

I agreed that the review should describe the current role undertaken by justices of the peace; develop a profile of justices of the peace; assess the demand for the roles currently undertaken by justices of the peace and the appropriateness of the quota system; consider the different roles currently undertaken in light of possible future changes to the justice system; identify future roles for justices of the peace and the skills applicable to these roles; examine the selection, orientation, and training and education processes for justices of the peace; and consider the current and future arrangements for administering justices of the peace services.

During the course of the review, justices of the peace were invited to contribute comment. This was encouraged by me in writing and by Justice Strategy Unit staff attending branch or regional meetings of the Royal Association of Justices. Submissions were also requested from various agencies including the South Australia Police, the Courts Administration Authority, the Department for Correctional Services and the Public Advocate.

A review of national and international literature was conducted. In addition, consultation occurred with people interstate who had responsibilities relating to the appointment of and other involvement with justices of the peace. The process has been a lengthy one but the time spent has been worthwhile given the nature and scope of the report on the review that I will seek leave to table in the council today.

The report outlines the purpose and objectives of the review which I have already mentioned. It also traces the history of the office of justice of the peace. The bulk of the report covers the current arrangements for the appointment of justices of the peace, their current responsibilities such as witnessing documents, procedural tasks, court duties and role as visiting inspectors in the state's prisons, and training for justices of the peace. The report concludes with a chapter on future roles for justices of the peace.

The review identifies a number of issues relating to the appointment and ongoing performance of justices of the peace and about their functions and the lack of training to undertake some of those functions. These issues and others form the bases for 41 recommendations. Members will be able to read the review and note the recommendations for themselves, so I will not lead the council through each section of the report on the review or through each recommendation. Instead, I will address some specific matters and give an indication where appropriate on my position on these matters.

The review highlights dissatisfaction with existing methods of selection. While it recommends that the existing requirements for appointments continue, it also recommends that inquiries of referees should become routine and that consideration should be given to enshrining the requirements to establish suitability for appointment in legislation. It also recommends that applicants should be required to produce two references in writing from community-based groups and/or individuals and nominate a third referee. I agree with most of the recommendations that relate to the appointment of justices of the peace. Indeed, steps have already been taken to implement some of the recommendations.

For example, the reliance on letters from members of this parliament has ceased, other than when the applicant nominates his or her local MP as a referee. The Registrar—with the assistance of the Justices Association—interviews all applicants in the metropolitan area. The local magistrate or court registrar interviews all applicants in country areas. Consideration is being given to ceasing the requirement that police interview applicants in the metropolitan area, and that would further refine the process. Applicants are now required to produce references from two community-based groups to demonstrate their commitment to and standing in their local community.

Since January this year, the Registrar writes to unsuccessful applicants, explaining the reasons for not having been successful, and returns their applications. The review also recommends that greater obligations be placed on justices of the peace to notify any change of address, to disclose when they have been found guilty of an offence and to commit to undertaking the functions and tasks associated with the office of justice of the peace. I concur with these recommendations. Furthermore, the review recommends the development of an online role of justices of the peace. Before this could be achieved the integrity of the existing data needs to be verified.

The review therefore recommends that all justices of the peace be required to resubmit their contact particulars. Whilst I agree with the recommendations that require justices to resubmit their particulars, I propose to request a small committee to, among other things, examine the feasibility of an online role of justices of the peace. The final membership of the committee is yet to be resolved but it will involve staff from my department, including the Registrar for Justices of the Peace, staff from the Justice Strategy Unit and the courts, my office as well as the President of the Royal Association of Justices.

To determine whether it is necessary to appoint a person as a justice of the peace, quotas are set in relation to the number of justices of the peace per residential area. Justices are appointed to ensure four justices of the peace for every 1 000 people in the metropolitan area, and in country areas the ratio doubles to eight per 1 000. The quotas substitute for opinion and other methods as the basis for advising upon the number of justices in an area and the need to appoint more justices. I propose to ask the committee to consider recommendations on the quota system.

I have mentioned several of the issues that were raised during the course of the review. To alleviate concern that some justices of the peace are not carrying out the functions and tasks of their office, and to ensure that there is a better appreciation of the work that justices of the peace do, the review recommends that a survey of justices of the peace be undertaken and that a means of reporting on the work of justices be devised. I have approved the survey for the reasons stated in the report on the review. I believe the survey will provide valuable information on which to base decisions about justices of the peace in the future.

I propose to refer the conduct of the survey to the committee already referred to for its consideration of the content. The review recommends that justices of the peace continue to exercise their witnessing function and, subject to demonstrated competence, continue to take procedural action, such as issuing summonses, complaints and warrants. I agree. With regard to the role of justices of the peace in the Magistrates Court, the review reports that there is support for appropriately trained justices being permitted to constitute a Magistrates Court. These justices should, the review recommends, have only very limited authority, which should be spelt out in legislation.

It seems to me that this requires further consideration and I propose to require the committee to give it that consideration. The review recommends improvements in training for justices of the peace to undertake their general functions and more intense training for those who seek to undertake specialised functions, such as assisting with the administration of the fines management scheme or acting as community guardians to assist people with a mental illness.

I have not taken a view on all the recommendations on training for justices of the peace, nor have I taken a view on the introduction of a tenure scheme and several other recommendations. Instead, I propose to charge the committee that I mentioned with providing further advice. I agree, however, that there is a need for a proper training needs assessment that should be guided by the findings of the review and other information emanating from the committee as well as comment on the review itself. It is viable that intending justices of the peace and current justices be of good moral and personal character, and they should have and maintain the general ability to perform the functions required of them.

The review demonstrates that justices of the peace continue to make a considerable contribution to the administration of justice in South Australia. Their contribution includes: participating in crime prevention programs; facilitating access to justice as delegates of the Ombudsman; witnessing documents; assisting police with property audits and witnessing drug destruction; reviewing bail and occasionally presiding over a Magistrates Court; constituting (with a magistrate) the Adoption Court; and inspecting correctional institutions.

In the future, the review suggests that justices could be appointed community guardians to assist the Public Advocate under the Guardianship and Administration Act or as quasi-judicial officers in the Fines Management Unit. The review also suggests that there might be scope to expand justices' existing role by training them to help applicants for legal aid and help consumers to access services offered by the Office of Consumer and Business Affairs.

I intend to release a report on the review for comment by justices, the public and others, and I reserve final judgment on some of its recommendations (other than where I have today indicated a view) until people have been afforded an opportunity to comment and the committee reports to me. I look forward to being able to report to the Council on future initiatives taken in response to the review. I seek leave to table the report of the review.

Leave granted.

SIGNIFICANT TREES

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a ministerial statement on the subject of significant trees.

Leave granted.

The Hon. DIANA LAIDLAW: On 20 April 2000, legislative controls were introduced to protect and manage significant trees in the urban environment. Within metropolitan Adelaide, the Development Regulations 1993 provide that all trees with a trunk circumference of greater than 2.5 metres (measured at one metre above ground level) cannot be damaged or removed without development approval. The regulations also provide two optional interim controls relating to trees: in each instance, those between 1.5 metres and 2.49 metres in trunk circumference and species indigenous to South Australia greater than four metres in height.

The interim controls were intended to protect these smaller trees during the preparation of council plan amendment reports listing significant trees in development plans. The interim controls are due to expire on 1 July 2001. Last year, the Cities of Adelaide, Burnside, Kensington Norwood and St Peters, Mitcham, Prospect and Unley opted into one or both of the additional interim controls with my approval. Subsequently, all of these councils except the City of Adelaide have prepared statements of intent to prepare plan amendment reports (PARs) listing significant trees. I have agreed to each of their statements of intent. However, it is now clear that the progress on these PARS has been variable and, in some cases, disappointingly slow.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: They just didn't get their act into gear. This has led to requests for an extension of the interim controls to allow significant tree lists and PARs to be finalised without this process being compromised by landowners removing trees. Today, I advise that cabinet has approved the drafting of amendments to the Development Regulations 1993 to extend the interim controls by one year to 1 July 2002 to enable the five councils that have agreed statements of intent to list significant trees in the development plans for their area.

This extension acknowledges that the five councils have experienced practical and budgetary difficulties greater than originally anticipated in listing a large number of significant trees in their development plans. I have written to all the five councils to advise them of the government's intention to extend the interim controls to 1 July 2002. I have further advised those councils that have sought a permanent blanket protection for trees covered by the interim measures (that is, trees with a trunk circumference between 1.5 metres and 2.49 metres and species indigenous to South Australia over four metres in height) that this matter should be considered as part of the two-year review of the legislation along with any other issues, recognising that it is the clear intention of the legislation to provide:

- blanket controls only to all very large trees (that is, those with a greater than 2.5 metre trunk circumference) in the metropolitan area, and
- at the discretion of individual councils, selective protection of other exceptional trees through identification as 'significant' in the Development Plan (with justification provided in terms of the provisions of the Development Act 1993) in the PAR process.

QUESTION TIME

MOTOR VEHICLES, DRIVER FITNESS

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Transport a question about medical fitness to drive.

Leave granted.

The Hon. CAROLYN PICKLES: This week in the *Advertiser* there was a very sad story of a fatal accident that occurred where it has been suggested that the driver was medically unfit to drive. Since this issue is before the Coroner at the present time, I do not wish to go into any further detail about that. The minister will recall that she chaired the Joint Committee on Transport Safety inquiry on driver training and testing, which reported to parliament in October 1999. Part of that recommendation on the subject of medical fitness to drive—

The Hon. Diana Laidlaw: If the Hon. Mr Elliott would keep quiet, I might be able to hear the question.

Members interjecting:

The Hon. CAROLYN PICKLES: It is a very good report.

An honourable member interjecting:

The Hon. CAROLYN PICKLES: Yes, it will because I will just keep quiet until you shut up. The committee recommended:

(i) Transport SA comply with the recommendation of Coroner Mr W. Boucaut on 19 August 1999 concerning referral, assessment and reporting procedures for medical fitness to drive;

(ii) the government initiate a process by which all registered medical personnel in the state are provided with information on their duties under section 148 of the Motor Vehicles Act, which requires them to notify the Registrar of Motor Vehicles of a licence holder or applicant who is unfit to drive;

(iii) the government encourage medical personnel, when reporting on their driver assessments, to recommend licence restrictions rather than necessarily recommending cancellation or suspension of driving licences; and

(iv) a penalty for medical personnel who fail to report unfit drivers should not be progressed at this time, but the option should remain open pending government monitoring of the reporting process.

The minister will recall that we had quite a significant amount of evidence on this issue, and I understand that the government has already contacted medical personnel in this regard. Would the minister indicate whether she is satisfied at this stage that medical personnel are responding to that initial recommendation of the Coroner in 1999?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): Following the select committee recommendations, as the honourable member noted, the Registrar of Motor Vehicles did write to all medical personnel in South Australia, alerting them again to the provisions of the Motor Vehicles Act and their obligation to report a person whom they believe to be unfit to drive, or who should at least have a test to assess whether they should have their

driver's licence continued. I do not have the figures at hand, but I have certainly seen them and they identify that there has been a marked increase of referrals by medical personnel to the Registrar to arrange for a driving test to be undertaken, or an eye test, or a whole range of activities to assess medical fitness to drive. I would be happy to bring back those figures to the honourable member.

In addition, I have asked the Registrar of Motor Vehicles to address the issue of restricted licences. There are several categories now of restricted licence, but the provisions in the act are used rarely. My question to the Registrar is: can we look at broadening the categories and also check to see how we can promote more licences to be issued with restricted access, for instance, to a local area for driving or simply to daytime driving and not night time driving, or to driving with or without other people in the car. I should have further advice on those matters shortly.

If we do have more licences issued with various restrictions attached, one issue is the enforcement of those licences. That is one matter that we will need to assess with the Registrar and the police. Finally, I remain of the view, as expressed by the select committee, that there should not be a penalty on medical personnel at this time for not reporting people whom they believe are not medically fit to drive, but I think that we must continue to promote the responsibilities of medical personnel in this area.

It is quite a traumatic experience, and generally it relates to older people (although I recently had a case of a person suffering epileptic fits) who see that they would lose their licence and therefore, they believe, their independence. Many older people also see this as the fact that they are no longer young enough to drive and what is their future: a nursing home and the rest. It is a traumatic issue. A medical practitioner must work that out, taking account of views of family, access to public transport and other alternatives to driving oneself. I think it proper that we rely on the medical practitioner to assess these matters on an individual basis without a penalty but encourage them in the community interest to request the Registrar that the person they are seeing is assessed.

ELECTRICITY INTERCONNECTION

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about electricity interconnectors.

Leave granted.

The Hon. P. HOLLOWAY: On 26 April last, the Treasurer said that the Murraylink interconnector from Victoria and New South Wales flowing through into South Australia was a superior alternative to Riverlink and that he expected an announcement on this project within weeks. In this morning's *Advertiser* it was reported that the government is expected to call at tomorrow's COAG meeting for the federal government to fund the construction of the Riverlink interconnect. My questions are:

1. In light of this revelation, was the Treasurer wrong to say that Riverlink was an inferior proposal to Murraylink?

2. Will the push to get Riverlink set back the Murraylink proposal?

The Hon. R.I. LUCAS (Treasurer): The Premier informed me this morning that the report in the *Advertiser* was inaccurate. It does not actually quote the Premier; it says 'it is believed'. I have actually seen a copy of a letter from the Premier to the Prime Minister which talks about support for interconnectors. Although I need to check the exact wording, it was something along the lines that it had not attracted funding, or funding is required to enable it to continue.

As the honourable member would know, Murraylink is already funded through a private sector consortium, and Riverlink or SNI is also fully funded by the New South Wales Labor Government. That was confirmed as recently as the last month or two, where the proponents indicated they were not requiring funding. All they were waiting for was a decision from NEMMCO to proceed. The Premier, as I understand it, has issued a further press statement today which has highlighted that in particular two projects which have not as yet attracted funding are the Snowy to Victoria upgrade and the possible upgrade of the Victoria to South Australia interconnector, and he has highlighted those particular issues as ones that, if there is not funding that is able to be attracted either from government or private sector proponents, the federal government, in a nation building infrastructure policy, might be prepared to support.

The member will know that I have highlighted previously the importance of the Snowy to Victoria upgrade, 400 megawatts for just $44 million and providing the combined Victoria, South Australia market with a much needed boost in capacity, when NEMMCO's statement of opportunities is predicting that in future summers when there is a coincident peak between Melbourne and Adelaide the existing interconnector might have either zero or up to 100 megawatts coming across an existing line which has the capacity of 500 megawatts. So that is clearly one of the more significant issues that the national market has to wrestle with, and the Premier is taking up that issue with the Prime Minister and other premiers. As I said, the Premier has informed me that the claimed position of the government this morning, reported in the *Advertiser*, is inaccurate.

VOLATILE SUBSTANCES

The Hon. T.G. ROBERTS: I seek leave to give a brief explanation prior to asking the Minister for Transport, representing the Minister for Aboriginal Affairs, and perhaps the Treasurer might even be able to respond to a question about the commonwealth funding program for the volatile substance misuse program.

Leave granted.

The Hon. T.G. ROBERTS: Yesterday, in the matters of interest debate I raised a problem associated with the administration of a million dollar program that had been put together at a commonwealth level some three months ago and that no agreement had been reached between commonwealth, state and territory bureaucrats on how to actually fund, direct or administer that program. It appears that the decision that they have made after all of the stakeholders had met—and, as I pointed out yesterday, that is many—was to use the territory as the funding administrator, and South Australia was not given an opportunity to be a part of that administration program, even though, as I pointed out yesterday, the north-western section of our state has had, and still has, problems associated with petrol sniffing. I am not quite sure in relation to the application of commonwealth funding whether the Minister for Aboriginal Affairs would have been involved, whether those ministers were invited to sit around the table or whether it was state treasurers. The questions I have are:

1. Why did South Australia miss out on a share of the money offered by the commonwealth for the volatile substance misuse program?

2. Given that the two pilot programs are now being tendered out, is there any opportunity for South Australia to influence outcomes and to be broadly involved in the administration and application of these commonwealth funds?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): With the benefit of some sign language the Treasurer has indicated that this question should not be directed to him but to the Minister for Aboriginal affairs and, therefore, I will refer the questions to the minister and bring back a reply.

AUSTRALIAN WORKERS UNION

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Treasurer a question on the subject of the AWU.

Leave granted.

The Hon. L.H. DAVIS: In 1999, the AWU published a colour pamphlet which was headed 'Join the Australian Workers Union campaign to assist the Spinal Research Fund'. It featured a photo of AWU Secretary Bob Sneath and Neil Sachse, Executive Officer of the Spinal Research Fund. The pamphlet included a tear-off slip headed 'Donations'. Donors were asked to provide name and address and post donations to the Spinal Research Fund of Australia, care of the AWU. The pamphlet stated:

> Donations $2 and over are tax deductible.

Cheques were to be made payable to the AWU Benevolent Trust Fund. Another panel of the brochure was headed 'Support your future: a trust fund for your future and for the betterment of spinal research'. It stated:

> The fund will be set up in the name of the Amalgamated AWU State Union of South Australia. Up to 50 per cent will be donated to spinal research with the remaining money reserved to assist members' families during times of financial hardship. The fund will also be used to provide financial support to future AWU projects. All donations to the fund will be tax deductible and all donators will be issued with a receipt.

The 1999-2000 annual report of the Spinal Research Fund confirmed that the AWU had held two fundraising events during the year; the first was a luncheon at Morphettville for the Labour Day Cup on 4 October 1999; the second was a luncheon at a cricket club where all food and wine were donated. In addition, I understand that there was an invitation to members of the AWU to make donations to this cause. Senior officials in the AWU also contributed a regular amount from their salary over two years which was also directed to the AWU Benevolent Trust Fund.

The AWU donated nearly $4 300 to the Spinal Research Fund in 1999-2000. This continued a long tradition of the AWU going back to the days of Jack Wright and Mick Young, where a number of charities were supported by the union. This donation was obviously appreciated by the benefiting charity which, like so many other charities in South Australia, relies heavily on support from corporate groups, community organisations and the public at large.

However, regrettably, there is another side to the story. In August 1999, letters were sent to potential donors of the Labour race day lunch in October 1999. The letter invited sponsorship of $2 000 for a table of 10, lunch and drinks. The letter stated the lunch was 'to celebrate Labour Day and raise funds for spinal research'. These letters were signed by Robert Sneath as Secretary of the AWU. I understand that there were seven tables at this lunch. Receipt for tickets to the race day were issued on behalf of the AWU Benevolent Trust Fund-Spinal Research.

There has been growing unease about the AWU Benevolent Trust Fund. Unlike the days of Jack Wright and Mick Young, when all the funds raised went to the benefiting charity, this pamphlet issued by the AWU stated that up to 50 per cent would be donated to spinal research. Some AWU members have tried to find out details about the AWU Benevolent Trust Fund but all requests in writing and verbally have been flatly refused. It is estimated that the Labour Day race day could have netted between $2 000 and $6 000 after expenses. The cricket function raised about $6 000 with 60 people attending at $100 a head. This was pure profit, but I understand that for Labor candidates attending half the ticket moneys from their table were donated back to their campaign funds. In addition, over a two year period, 15 senior officers of the union donated an estimated $7 000 which also went into the AWU Benevolent Trust Fund. On top of that, there was an unknown amount of money donated by other members and supporters of the AWU.

In summary, the Spinal Research Fund received about $4 300 from the AWU when it appears that the AWU raised an amount significantly greater than that figure. Many sponsors, members and supporters of the AWU would have been under the mistaken belief that all the money donated by them, after taking into account expenses, would be sent onto the benefiting charity. This was not the case. I understand that people who made major donations and senior officers of the AWU received receipts which specifically noted that the donation to the AWU Benevolent Trust Fund-Spinal Research could be claimed as a tax deduction.

The Hon. Diana Laidlaw interjecting:

The Hon. L.H. DAVIS: The full sum. However, the AWU Benevolent Trust Fund is not registered with the Australian Tax Office. The Australian Business Register web site www.abr.business.gov.au lists charities which have been endorsed as eligible for income tax concessions. The AWU Benevolent Trust Fund is not listed as a charity to receive tax deductible donations. A check with the Australian Tax Office confirmed that there is no record of this trust being registered. There has been a clear breach of the Tax Act.

Only today, a member of the AWU, who had given a significant donation to the AWU Benevolent Trust Fund in good faith, received a phone call from an officer from the Australian Tax Office advising him that the tax deductibility on his donation to the AWU Benevolent Trust Fund would be disallowed.

I cannot stress too much that the Spinal Research Fund is a totally innocent victim in this matter. It goes without saying that this fund is a registered charity which can receive tax deductible donations. It has received the funds from the AWU in good faith and obviously knew nothing about what I have said today. I regret having to involve the fund in this question but, obviously, it has been unavoidable. I would hope that any publicity it receives will be treated in a favourable light and that it encourages both members of parliament and the community at large to consider—

The PRESIDENT: I hope the honourable member is getting close to the end of his question.

The Hon. L.H. DAVIS: I am, Mr President—making a donation to the Spinal Research Fund in the closing weeks of this financial year. Its executive officer, Neil Sachse, is

admired for his commitment to this worthy cause. My question is: will the Treasurer refer this serious matter, along with all the other issues raised, to the appropriate minister for consideration?

The Hon. R.I. LUCAS (Treasurer): I join with the Hon. Mr Davis in acknowledging the public worth of the work of this particular charity and join him, too, in hoping that the fact that this issue needs to be raised publicly as a matter of public interest for further investigation does not lead to any flow-on negative consequences for this charity.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: We are talking about a particular one here. No-one in this chamber, I am sure, would want to see that occur. That having been said, clearly the allegations, together with the earlier allegations, are most serious indeed. The honourable member has provided evidence in relation to the claims that have been made by the Hon. Bob Sneath and other office holders about the tax deductibility of donations to the AWU benevolent trust fund, where clearly as a result of that some donations have been made, as the Hon. Mr Davis has indicated, with the clear intention by some of the donors that the Spinal Research Fund will benefit in some way from that. To establish that the claims made by the Hon. Bob Sneath and other office bearers are wrong and that people have been misled may well involve—and we will need to take legal advice on this, I guess—a breach of the law in relation to the appropriate operation of these sorts of funds and, in particular, their tax deductibility or otherwise.

I will certainly take up the issue with the appropriate minister or ministers. I assume from what the member has said that the Australian Tax Office and federal government agencies are now involved in investigating these serious claims that have been made and, in relation to the federal issues, we will need to await judgment by the tax office and others about actions that may have been taken by the Hon. Bob Sneath and others on behalf of the AWU.

EMPLOYMENT

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Employment and Training, a question about employment in South Australia.

Leave granted.

The Hon. M.J. ELLIOTT: Since December 1993 full-time employment in South Australia has remained substantially static. In 1993 there were 467 000 full-time jobs. It now stands at 471 100 jobs, an increase overall of about 4 000 jobs. Most of the employment growth has occurred in the part-time casual category where the increase has been approximately 35 000 additional jobs. In fact, according to the trend figures, in January 1995 there were some 2 000 more people in full-time work in South Australia than there are today.

When one looks at participation rates since 1993, one sees that the national participation rate has actually improved by .6 per cent, while that in South Australia has deteriorated by 1.6 per cent. I ask the minister: what plans does the government have to try to increase employment in the full-time category—which, of course, many people would prefer instead of casual and part time—and what plans does the government have to bring us back towards the national figures in terms of participation rates, which have dropped away markedly and not just on the basis of changes in age profile?

The Hon. R.I. LUCAS (Treasurer): I did not get all of the question and the explanation, but I am assuming that part of the question followed on from the honourable member's Supply Bill speech last night. From my recollection, and I will need to check the *Hansard* record, the honourable member referred to out-dated participation rate figures for South Australia. I guess that it served his purpose to do so—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: No, last night the honourable member quoted 59—

The Hon. M.J. Elliott: I did not have today's figures yesterday.

The Hon. R.I. LUCAS: No; last month's figures were not 59 per cent, as I understand it. Anyway, the figures I heard last night quoted by the honourable member were 59—

The Hon. M.J. Elliott: It was 59.9; it still is.

The Hon. R.I. LUCAS: The participation rate, according to Treasury advice I have just received, is 60.6 per cent. There is an increase in the participation rate of 60.6 per cent, so I am not sure to what the honourable member is referring. Whatever the lowest figure is, the honourable member will try to pick it. I am sure that the honourable member would have been slashing his wrists today, because full-time employment, I am told (I have not had a chance to look at it), actually increased by 6 600 jobs in South Australia. I did not quite hear that in the explanation from the Hon. Mr Elliott.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: No; 6 600.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: ABS; what is the honourable member talking about?

Members interjecting:

The PRESIDENT: Order! The Treasurer will answer the question.

The Hon. R.I. LUCAS: The seasonally adjusted South Australian unemployment rate remains static at 7.5 per cent. As I understand it, the national figures increased. The Hon. Mr Elliott would not mention that in his explanation, of course. He is desperate to portray the South Australian economy and employment and unemployment in the worst possible light, and he does that on a regular basis. As I said, as the advice from Treasury says to me, and I have not had a chance to look at it, full-time employment increased by 6 600 jobs from this month compared to last month. As I understand it, national unemployment increased—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Seasonally adjusted data.

Members interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Elliott uses whatever data paints the worst position of South Australia—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Anything—

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —to portray South Australia in the worst possible light.

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: Exactly. Anything to portray South Australia in the worst possible light the Hon. Mr Elliott—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: That is wonderful; your page is bigger than mine. Whoopee! The Leader of the Democrats has a longer page than I have in terms of advice. I bow to his greater wisdom and knowledge on these particular issues. The

simple reality and the history of the Australian Democrats, and in particular the leader, has been—

An honourable member interjecting:

The Hon. R.I. LUCAS: —yes, I am—to highlight whichever particular number paints the South Australian economy and the government in the worst possible light. The Hon. Mr Elliott would choose those figures. As I say, a 6 600 job increase in full-time jobs.

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order, the Hon. Mr Elliott!

The Hon. R.I. LUCAS: The Hon. Mr Elliott complains about the lack of questions when he spends half of question time wasting time by yelling across people who are trying to answer a question. I am dismayed at his hypocrisy. The unemployment rate in South Australia is 7.5 per cent. As I understand it, the national unemployment rate slightly increased. South Australia's difference to the national unemployment rate, again, narrowed. There is no acknowledgment of that from the Hon. Mr Elliott. When it was increasing, who was saying that the unemployment rate in South Australia compared to the national figure is now increasing? The Hon. Mr Elliott was.

Whenever there is something negative in the figures, the Hon. Mr Elliott will dig away; he will drill away and find a negative figure. When there are positive figures in relation to unemployment, the honourable member nevertheless still does his very best to try to portray it in a negative fashion. I will refer the honourable member's other questions which I was unable to pick up from his explanation to the appropriate minister and bring back a reply.

YOUTH ALLOWANCE

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Youth, a question about the youth allowance.

Leave granted.

The Hon. CAROLINE SCHAEFER: For several years now, the South Australian government has offered scholarships to rural students as an incentive to study in the health disciplines and to go back into country areas to work after graduation. They are not major scholarships; I think they are in the vicinity of $5 000. One of my constituents is the recipient of a rural health scholarship. She receives $150 a week youth allowance from Centrelink and has been working part-time. She has now been advised by Centrelink that she cannot work at all without losing some of her youth allowance due to the receipt of the scholarship. She had hoped that the scholarship would permit her to cut down on her working hours so that she could concentrate further on her studies.

The youth scholarship, as we understood it, was to be deemed not as taxable income but as a reward for hard work and an incentive to go back and work in rural areas where there is a shortage of health professionals. My question is: will the minister refer this matter to his federal counterpart in an endeavour to have this somewhat bizarre anomaly removed?

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

HIH INSURANCE

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Attorney-General a question about HIH.

Leave granted.

The Hon. NICK XENOPHON: Section 34 of South Australia's Building Work Contractors Act provides:

> A building work contractor must not perform building work to which this division applies unless—
>
> (a) a policy of insurance that complies with this division is in force in relation to that building work.

The Master Builders Association of South Australia (under its master policy of insurance) provides building indemnity insurance to its members. Until the collapse of HIH in March 2001, the master policy was underwritten by HIH. In other states (including New South Wales and Victoria) a builder cannot continue building work without an ongoing Certificate of Currency of Indemnity Insurance. I understand that in those other states builders have been required by law to obtain replacement insurance. The MBA of South Australia has obtained legal advice which states that, under South Australian law, home builders arguably do not have to take out replacement insurance even though the advice seems to acknowledge that the policy is, in effect, worthless. The advice of lawyers for MBA includes the following:

> Any contractors who are continuing to perform domestic building works in respect of which a policy underwritten by HIH ('the HIH policy') has been issued will not be in breach of Section 34(a) of the act unless the provisional liquidator of HIH has cancelled the HIH policy in accordance with the requirements of the Insurance Contracts Act 1984 (Cth) and the contractors have not obtained replacement insurance.

My questions are:

1. Does the Attorney accept the advice of MBA's lawyers that, in effect, insurance contracts with HIH would still technically comply with section 34(a), thereby leaving consumers whose homes are currently being built potentially exposed if the builder becomes insolvent?

2. What is the position in New South Wales and Victoria in respect of builders being required to take out replacement insurance policies if HIH was the indemnity insurer?

3. Will the Attorney advise how many home owners have been left out of pocket as a result of builders who were covered by HIH becoming insolvent, and what is the likely quantum of these claims?

4. Has the Attorney or the Commissioner of Consumer Affairs been able to establish how many homes are currently being built in South Australia where the building indemnity insurer is HIH?

The Hon. K.T. GRIFFIN (Attorney-General): I can deal with the third and fourth questions immediately. The Office of Consumer and Business Affairs cannot tell how many builders or properties might be affected by the HIH collapse. The difficulty is that the liquidator has all the information and the liquidator has not been able to make that information available. It is a particularly difficult exercise to analyse the records and to get to a figure which might at least have some semblance of accuracy. That is one of the reasons why the referral centre hotline was established at the Office of Consumer and Business Affairs—to endeavour to get information from people about what is the true situation in South Australia. We do know that the South Australian situation is nowhere near as difficult as the situation in the eastern states, where HIH had a great deal more business than

it had in South Australia, but that is about the only conclusion we can draw at the present time. The information is that, so far, there are about 12 property owners who could be affected. There is no indication as to the extent of the problem which they currently face. They are issues that we will continue to consider as information becomes available.

So far as the reference to the legal advice from Johnson Winter Slattery is concerned, the honourable member made a copy of that available to me late yesterday afternoon. I have scanned it and I have asked that it be considered, but it is legal advice to the Master Builders Association, which I understand went to all its members on the basis of providing information to them. So, far from its having fallen off the back of a passing truck, as I understand it, all the members of the Master Builders Association had it, so it is, in effect, in the public arena. There is nothing sinister about that. I have not had a chance to reach any conclusions on that legal advice. That is something that will be considered over the next week or so.

The whole issue is a most difficult one to resolve. The Treasurer and I have both made public statements about it when questioned on the issue. There are some difficult philosophical issues that have to be addressed. For example, the Master Builders Association was today saying that the government has to review the legislation, but no-one is saying how the legislation has actually failed; and no-one has actually said what is the alternative. It is all very well to throw questions about what is the position: it is much more difficult to come to a constructive solution. For example, if one does review the legislation, do we remove the obligation for a builder to take out builders' indemnity insurance? No-one wants that. Do we go to a situation where there is a levy placed on someone or do taxpayers pay for it through the Consolidated Account to establish something similar to the Agents Indemnity Fund under the Land Agents Act, or something like the Second-hand Vehicle Dealers Indemnity Fund? Of course, that exposes the taxpayers of this state to quite substantial risk and also, if it was to be funded through a levy, it would ultimately come back to builders and to their customers, because someone has to pay in the end. If we were to amend the legislation, in which way should that occur?

The issue is particularly difficult as I have already indicated. It is not capable of easy or quick resolution. I feel particularly sorry for those citizens who are suffering as a result but, ultimately, one has to ask the question—whether it is HIH Insurance, One.Tel or Harris Scarfe—should the taxpayers of South Australia be stepping in with taxpayers' funds and meeting some of the losses suffered by those who fall within those categories of shareholders or creditors? It should be a pretty persuasive argument before the taxpayers of this state are called upon to make a contribution.

Whilst it is easy to be critical and to raise these sorts of issues in a way that suggests that neither the government nor the Master Builders Association nor even the Housing Industry Association is doing anything, the problem is much more difficult than that and much more complex than those sorts of questions or criticisms might suggest. The government is diligently endeavouring to identify the size of the problem in this state and the sorts of problems that are being confronted. The hotline will help us get to the bottom of that, but not even the building industry can provide accurate information about the extent of the problem, and the government is at arm's length from it.

How can the government then get that information voluntarily if we cannot rely on the industry associations or some other sources? I reiterate that we are endeavouring to get to the bottom of it from a position where the government has been at arm's length from it and has had no involvement either with HIH or with the detail of builders indemnity insurance, merely providing in legislation for the minimum standards that must be met. We will do our best to try to get to the bottom of it, then we will make some decisions about where we should go on the next step.

AUSTRALIAN WORKERS UNION

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Treasurer a question about the AWU.

Leave granted.

The Hon. L.H. DAVIS: In the past three weeks I have highlighted a number of serious matters regarding the AWU and its relationship with the Labor Party in South Australia. The current AWU election has seen ballot papers sent to dozens of dead people: some who have been dead for eight years. Only yesterday I received the voting paper sent to an 87 year old living in a nursing home, who had retired from the Carpenters and Joiners Union in 1975—just 26 years ago. He had been given his discharge papers from the union in 1975 and yet was still on the register of members when that union transferred to the AWU in 1994-95, and apparently remains as a member of the AWU.

Of the 10 000-plus leaflets sent out by some candidates for this election, hundreds have been returned with address unknown. As at 31 March 2000 the AWU was affiliated with the Labor Party for 14 010 members, yet the 1999-2000 AWU account, signed by Bob Sneath as AWU Secretary, stated that there were only 10 208 members as at 30 June 2000. The Hon. Bob Sneath in the *Advertiser* of 30 May 2001 was quoted as saying that, if glass workers and the Whyalla/Woomera AWU branch were included, this would bring the total to 14 000.

But glass workers at 300 members and Whyalla/Woomera at 650 members represent only 950 members, bringing the total to 11 158—almost 3 000 short of the AWU numbers for Labor Party affiliation. This barefaced electoral rorting resulted in Senator Chris Schacht and Bill Hender suffering significant defeats in preselection. The Hon. Bob Sneath, in response to a question from his colleague—

The Hon. R.R. ROBERTS: Question!

The PRESIDENT: Order! An honourable member has called for question. The Hon. Mr Davis must go straight to the question.

The Hon. L.H. DAVIS: I will sit down, Mr President.

The PRESIDENT: I have to rule that the standing orders allow a member to call 'question'. I have heard the call of 'question', so I have to ask the Hon. Mr Davis to go straight to the question.

The Hon. L.H. DAVIS: In view of the fact that, for the first time in my 22 years, I have heard the word 'question', which is an outrageous abuse—

The PRESIDENT: Order! The Hon. Mr Davis will ask his question.

The Hon. L.H. DAVIS: I will not ask the question, because I have not come to the substance of the question. I cannot ask the question.

BAROSSA VALLEY HOSPITAL

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport,

representing the Minister for Human Services, a question about the new hospital proposed for the Barossa Valley.

Leave granted.

The Hon. SANDRA KANCK: On Tuesday, the *Advertiser* carried the story '$12 million plan for new Barossa hospital'. The story came from a media release entitled 'New hospital for the Barossa gets go ahead', which was issued on Thursday 31 May, budget day. Despite the announcement, there is no definitive plan for the hospital to be found in the budget. There are no funds specifically set aside for the hospital. A mention was found in the Treasurer's speech which said that a new hospital was to be considered. The media release gives the impression that this was a new announcement, yet the new hospital was given the go ahead by Ray Blight from the Health Commission in 1995. Now it seems that the hospital is not due to be completed until 2006, 11 years from the original government announcement.

The Tomlinson report, which was carried out for Barossa Area Health Services Inc., reviewed the state of both the Angaston and Tanunda hospitals. The key finding was that a new integrated acute hospital and health service was needed, but in the short term 'an urgent, immediate capital investment' of approximately $8 million was needed just to enable continued delivery of acute and community health services. The report also stated:

> . . . continued delivery of health service to the Barossa Valley by Barossa Area Health Services Inc. could be compromised from: an inability to continue to effectively manage the existing risks associated with continued use of existing substandard assets. . .

The government's media release did recognise that 'urgent repair work' was needed. Provision has been made for a $300 000 funding grant to the hospital board—just $7.7 million short of what was needed. My questions to the minister are:

1. How much money has been put aside in this year's budget to plan for the new hospital?

2. Does the department of Human Services have ownership of the Reusch Park site at Nuriootpa?

3. Why was the press release sent out on budget day when there was no clear indication of budget funds for the new hospital?

4. Why has it taken so long for the government to honour a commitment made six years ago?

5. Given the Tomlinson report recommendation for $8 million to be spent urgently to maintain acute community health services, why has the government given the health service just $300 000?

6. Following the minister's undertaking last November, that an assessment of the Angaston and Tanunda hospitals to maintain assets in the short term would take place, will the minister provide me with a copy of the results of that assessment?

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. I can confirm that there is money in the budget to investigate the issues.

LIBRARIES, COUNTRY

The Hon. R.R. ROBERTS: My question is directed to the Minister for the Arts on the subject of public libraries. Can the minister ensure that, as a result of the recently announced allocation of moneys to public libraries over the next five years, enough funds will be allocated to country libraries to ensure that students living in Riverton and other small country centres will be given the same access to public library funds and resources as people living in metropolitan areas?

The Hon. DIANA LAIDLAW (Minister for the Arts): From the briefings I have had, the undertaking I will give is yes. If on advice there is anything different from that I will promptly inform the honourable member.

VISY INDUSTRIES

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about a promised $90 million investment in South Australia.

Leave granted.

The Hon. CARMEL ZOLLO: In August 1997, just prior to the last election, the Premier announced to the Liberal Party State Council that within two years Visy Industries would establish South Australia's first wastepaper recycling facility. In this announcement, the Premier boasted:

> Not counting the many jobs that would be created in the construction phase, the plant will employ 95 and create a further 250 jobs in support areas of the community. . . It is expected to be operational by mid-1999.

I have raised this matter several times, so I will not repeat the lengthy explanation, but I will refer to the then Minister for Industry and Trade's response to my last question of October 1998. The then minister advised in December 1999:

> Visy Industries remained committed to the establishment of a new wastepaper recycling plant in Adelaide, but that several technical issues, including energy provision, were difficult to resolve.

The minister also refused to disclose the level and type of support by the government, claiming commercial confidentiality. The minister's reply went on to say that the Department of Industry and Trade would continue to work with the company to resolve technical issues. It has also been separately claimed in press reports that the proposed plant in South Australia may be lost because of the excessively high cost of electricity in South Australia. My questions are:

1. Does the Treasurer believe that the Visy plant will still be built in South Australia? If so, when and where will construction commence?

2. Have the technical issues claimed to be delaying the plant been resolved?

3. Can the Treasurer detail what negotiations have taken place with Visy since December 1999?

4. Does the Treasurer agree that the high cost of electricity in South Australia may lead to the plant's being rebuilt interstate?

5. How much has the government spent to date on seeking to secure the plant?

6. Can we expect this project to be re-announced before the next election?

The Hon. R.I. LUCAS (Treasurer): I will need to take some advice on those questions and bring back a reply.

WORKERS' COMPENSATION

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Workplace Relations a question about superannuation and section 4 of the workers compensation act.

Leave granted.

The Hon. R.K. SNEATH: There have been a number of changes to the workers compensation act, one being the overtime provisions to be taken into account, I understand, when working out a worker's average weekly earnings. When the workers compensation act was first put together, award superannuation provisions were included, where an injured worker, whilst injured, received the guaranteed superannuation levy. That changed some time ago. Following those changes, an injured worker is certainly not as well off as I thought he was meant to be according to the act, which was to treat an injured worker the same, especially for the first 12 months, until reducing their full time earnings by 20 per cent after the first 12 months.

Section 4 of the act was meant to allow an injured worker to receive his average weekly earnings and be treated the same as if he had been at work or as close as possible to that. My questions are: does the minister think that section 4 still protects a worker's average weekly earnings, as the act set out to do in the first place? Does the minister intend to revisit the payments of guaranteed superannuation provisions for injured workers?

The Hon. R.D. LAWSON (Minister for Workplace Relations): The honourable member's question relates to details of the Workers Compensation and Rehabilitation Act which is administered by my colleague the Minister for Government Enterprises. I will certainly refer the detail of the honourable member's question to that minister and bring back a detailed response in due course.

However, I think it is worth saying that the honourable member suggests that, as a result of amendments to the act, workers are no longer as well off as they might have been before. Comparable tables will show that injured workers in South Australia have a scheme which is among the most generous and in many areas the most generous in Australia. This government, while it did make certain amendments to the act to make it more effective, to make it cost effective and to keep this state cost competitive, still kept in place a scheme which is generous to workers and among the best in the country. I will take the honourable member's question on notice and refer it to the Minister for Government Enterprises.

The Hon. NICK XENOPHON: I have a supplementary question. Will the minister supply details of the extent of the change to average weekly earnings since the inception of the act with respect to section 4?

The Hon. R.D. LAWSON: I will also refer that matter to the minister.

DRIVING LICENCES

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Attorney-General a question about counterfeit drivers' licences.

Leave granted.

The Hon. CARMEL ZOLLO: Some time ago I raised the issue of fake IDs being made available over the internet. I have since been informed that IDs now available on the worldwide web include forged South Australian drivers' licences. In November 1999, the *Sunday Mail* reported on the increasing trade and use of false identification cards in South Australia by underage teenagers, linking it to the availability of fake IDs on the internet. The article then reported on a joint task force comprising police, liquor licensing authorities and the Australian Hotels Association of South Australia to consider methods to address this problem. At the time, a spokesperson for the Liquor and Gaming Commission indicated they had seen a big stack of seized IDs. I am informed that the technology to which children have access makes is nearly impossible to tell the fake from the genuine article.

In New South Wales, police have been implementing a crackdown on fake ID cards since January this year and are charging the holders of fake IDs, as well as issuing on-the-spot fines. One year 10 student in New South Wales claimed in reports that up to 50 per cent of children at schools have fake IDs and that it could cost up to $100 to get a good forgery. My questions to the Attorney-General are:

1. What action is being taken to reduce the use of fake IDs by underage teenagers in South Australia?

2. How many fake IDs has been seized in the past 12 months?

3. What action is taken against the holders of fake IDs?

4. What ongoing programs are in place to reduce the incidence of underage patronage in bars and clubs in South Australia?

The Hon. K.T. GRIFFIN (Attorney-General): I will have to take the question on notice and obtain some information. It is always a concern if there are fake drivers' licences or fake identification cards and, in those circumstances, if it is possible to obtain evidence sufficient to warrant a prosecution, then that action ought to be taken. One of the difficulties is always to identify the perpetrator of the forgery. If the honourable member wishes to provide information about where these fakes can be accessed on the internet, I would be happy to refer it to the police. In fact, I will refer the whole question to the police and other authorities and endeavour to bring back an appropriate reply. If there is information which the honourable member has, I would appreciate receiving it so that I can refer it to the appropriate authorities.

WORKPLACE RELATIONS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Workplace Relations a question on rights to information for employees.

Leave granted.

The Hon. T.G. ROBERTS: We have seen a spate of bankruptcies that have left workers with their entitlements in the hands of private benefactors, in some cases, to be paid and, in other cases, promises by politicians, including Prime Ministers, to make good the rights for those individuals. Nothing is coming forward from the federal workplace relations minister in relation to drafting legislation to include rights of access to information so that employees can monitor the progress of a company's profitable trading position or its ability to remain solvent. My question is: will the minister consider amending the IR act to include rights to information affecting an employee's job security, pay rates, and entitlements and benefits, including superannuation administration and its returns?

The Hon. R.D. LAWSON (Minister for Workplace Relations): The honourable member's suggestion that workers have access to information concerning the financial performance of a company while trading does seem to have a significant number of impediments in the way of the implementation of such a scheme. Obviously, operating companies have financial and other information, some of which appears to be available to directors and executives of companies and other of which even directors do not seem to have ready

access—if recent reports coming out of New South Wales are correct.

However, I see very real difficulties in any person outside the management of a company and its financial advisers and bankers being given information about the way in which the company is travelling and its financial position at any one time. Plenty of people in the stock market, too, would like access to financial information about trading companies. Indeed, in many cases those in the market have a more significant financial investment in the company than employees—not that I in any way belittle or understate their vital interest in the financial health of a company. I do not believe that the scheme suggested by the honourable member is practical. I do not believe it would work and I do not believe it would be effective. However, I am prepared to take advice in relation to the matter and to ascertain further whether the commonwealth authorities have any proposals for change in relation to this matter.

There is another aspect to the question, that is, the information to which a person is entitled when a company goes into administration. I can understand the uncertainty of not only creditors but also workers in knowing their likely recovery during the course of an administration. I think there could be a case made for better information being made available to creditors and employees of companies during the course of administration, but I will examine that issue and bring back a more detailed response.

STATE DEBT

In reply to **Hon. L.H. DAVIS** (3 May).

The Hon. R.I. LUCAS: South Australia's net debt at 30 June 2000 for the non financial public sector was $4.4 billion, or 10.2 per cent of Gross State Product (GSP). At this time New South Wales' non financial public sector net debt was $18.9 billion, or 8.4 per cent of GSP.

Based on the mid year review data published for both States, South Australia's estimated net debt at 30 June 2001 for the non financial public sector is $3.1 billion, or 7.0 per cent of GSP, while New South Wales' non financial public sector net debt is estimated to be $19.2 billion, or 8.0 per cent of GSP.

The significant improvement in SA's net debt position compared with NSW over this period can be primarily attributed to the finalisation of the electricity assets privatisation process.

Non Financial Public Sector Net Debt

	30 June 2000 (Actual)	30 June 2001 (est.)
SA—		
Net Debt (Nominal $B)	4.4	3.1
Net Debt as per cent of GSP	10.2	7.0
NSW—		
Net Debt (Nominal $B)	18.9	19.2
Net Debt as per cent of GSP	8.4	8.0

AUDITOR-GENERAL'S REPORT

In reply to **Hon. P. HOLLOWAY** (11 October 2000).

The Hon. R.I. LUCAS: In April 2000 the ABS released its first accrual-based GFS publication. The finalisation of the concepts and methodology of this reporting framework now allows all states to report on an economic, as opposed to accounting standards, accrual basis. The commonwealth and some states have adopted the fiscal balance as the key budget indicator. The 2000-01 Budget remains focused on the cash-based deficit, as it represents the third year of a four-year cash based fiscal plan. However significant accrual based information is also provided in the budget papers. In formulating a future fiscal plan the Government will consider the appropriate fiscal target to adopt.

The government is still considering the appropriate accrual fiscal target for South Australia and will consider current practice in other states.

However, this government has been totally transparent, at the cost of some considerable resources within the Department of Treasury and Finance, and has included in its budget papers just about every conceivable reporting format—cash based, accounting standard accrual based, and ABS standard accrual based.

Therefore, I feel confident that when the government moves to adopt a particular accrual based target as part of a new fiscal plan, the transition will be relatively smooth, given the history of budgets being presented in the different formats for a number of years.

ALICE SPRINGS TO DARWIN RAILWAY

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

The Hon. R.I. LUCAS: The terms and conditions for SAFA's loan to the Alice Spring to Darwin Railway project were finalised on 20 April 2001, following negotiations with the consortium and its advisers.

SAFA's loan of $26.4 million was facilitated through the purchase of Tier 1 and Tier 2 Mezzanine Notes. Summary terms and conditions of the notes include:

Tier 1 Mezzanine Notes

Issuer:	Asia Pacific Transport Finance Pty Ltd
Amount Purchased:	$10 million
Deemed Financial Close:	31 March 2001
Drawdown:	No earlier than 15 months from Deemed Financial Close (30 June 2002)
Term:	16 years from Deemed Financial Close (31 March 2017)
Interest Rate:	90 Day Bank Bill Rate plus 5.5 per cent per annum
Ranking:	After all senior secured debt but in priority to Tier 2 Mezzanine Notes, A$50 million Government Loan, all unsecured debt and all equity

Tier 2 Mezzanine Notes

Issuer:	Asia Pacific Transport Finance Pty Ltd
Amount Purchased:	$16.4 million
Deemed Financial Close:	31 March 2001
Drawdown:	17 months after Deemed Financial Close (31 August 2002)
Term:	20 years from construction of Railway (no later than 31 March 2024)
Interest Rate:	(i) No interest rate from 31 August 2002 to 31 March 2006 (ii) 12 per cent per annum from 1 April 2006 to 31 March 2010 (iii) Bank Bill Rate plus 6 per cent per annum from 1 April 2010 to maturity
Ranking:	After all senior secured debt and Tier 1 Mezzanine Notes but in priority to A$50 million Government loan, all unsecured debt and all equity

SAFA's purchase of the Tier 1 and Tier 2 Mezzanine Notes has been guaranteed by the Premier pursuant to the Alice Springs to Darwin Railway Act 1997.

GOODS AND SERVICES TAX

In reply to **Hon. CAROLYN PICKLES** (4 April).

The Hon. R.I. LUCAS: The Department of Human Services has had discussions with Treasury and Finance in relation to the impact of the GST on hospital cash flows.

The Department of Human Services is in the same position as a majority of government departments in that it receives a refund from the Australian Taxation Office (ATO) in relation to GST incorporated in the price of goods purchased. As the GST paid is subsequently reimbursed by the ATO, departments do not need to receive supplementary funding provided they have sufficient cash to cover the first period between settlement of accounts and receipt of GST refunds.

The Department of Human Services has sufficient cash to manage the cash flow timing requirements associated with GST.

Further, additional funding has been approved for the Department of Human Services to compensate it for one-off GST implementation costs, including GST project management staffing costs, systems

installation or upgrades, consultant costs and other general administration and training costs. The Department of Human Services has lodged claims totalling $8.6 million and has been reimbursed for these amounts by the Department of Treasury and Finance.

HOUSING, NEW

In reply to **Hon. T.G. ROBERTS** (4 April).

The Hon. R.I. LUCAS: In response to the first question, according to data released by the Australian Bureau of Statistics (ABS) on 30 March, both private sector house approvals and total dwelling unit approvals increased for the fifth consecutive month in February in SA in trend terms. Following a 'pull-forward' of building activity prior to the introduction of the GST, which saw the market peak in January 2000, approvals may have 'bottomed out' in trend terms in September 2000.

Although latest seasonally adjusted data is weaker than the trend data and recorded a fall in February, the upward trend is expected to continue following the reduction in official interest rates of 1.25 percentage points by the Reserve Bank of Australia since early February, and the doubling of the First Home Owners Grant (FHOG) to $14 000 announced in March for first home buyers of new and newly constructed dwellings.

Other housing indicators such as housing finance commitments, which are a leading indicator of approvals, have shown recent weakness but this data does not yet reflect the impact of the three reductions in interest rates or the impact of the doubling of the FHOG. The positive outlook for the housing industry is shared by the independent SA Housing Industry Prospects Forum who, in a March press release, suggested that the doubling of the FHOG could result in an additional 1 000 dwellings being built during 2000-01 and 2001-02.

In response to the second question, at the time of the May 2000 Budget provision was made for a weakening in the property market in 2000-01, including a weakening in the new housing sector following an expected pull forward effect in 1999-2000 in anticipation of the GST. Year to date experience with conveyancing stamp duty receipts suggests that the property market as a whole has held up better than expected in 2000-01. Conveyancing duty receipts are nevertheless estimated to be significantly lower in 2000-01 compared to 1999-2000.

Consideration has also been given to the budgetary effects in 2000-01 of the temporary increase to $14 000 in the size of the grant for new house constructions under the First Home Owners Grant (FHOG) Scheme. The cost of FHOG grants is funded by the Commonwealth at no net cost to the Budget. While the additional FHOG grant is expected to increase new housing activity in 2000-01 through a combination of:

- pull forward of activity from 2001-02
- the substitution of new home construction for the purchase of established houses and
- the attraction of some new entrants into the housing market,

The overall net impact of the increased FHOG scheme itself on conveyancing duty receipts is expected to be slightly negative due in part to the related greater use of the state government first home stamp duty concession.

The increase in the FHOG scheme has generated a significant amount of interest in South Australia. Between 9 March 2001 (the date of the announcement by the Commonwealth of the additional FHOG) and 12 April 2001 RevenueSA, as administrators of the FHOG scheme in South Australia, received approximately 4 400 telephone enquiries, 370 e-mail enquiries, 320 correspondence enquiries and 400 'over the counter enquiries'.

As at 12 April 2001 nearly 40 applications had been received by financial institutions pending finalisation of administrative arrangements and 1 pending application had been received by RevenueSA. However none of these applications could be processed until the administrative arrangements to support the FHOG scheme were put in place and application forms for the additional FHOG were released. These arrangements were finalised on 17 April 2001.

In response to the third question seeking information on the impact of the downturn on the timber industry, particularly in the south-east of South Australia, ForestrySA has advised that on a year to date basis log sales from State owned plantations are currently 25 per cent below budget. This represents a fall in demand from local mills of about 104 000 cubic meters.

In addition, ForestrySA has advised that inventory held by local mills is very high—and expected to increase. Most local production in the south-east is linked in some way to domestic and commercial building, however ForestrySA is not able to provide data on the impact of specific events (for example, the FHOG) on their sales.

Current levels of sales of ForestrySA product do not yet reflect recent reductions in official interest rates by the Reserve Bank of Australia or the very recent doubling of the FHOG for newly constructed homes. These two factors should contribute to an improvement in timber sales to the construction industry.

AUDITOR-GENERAL'S REPORT

In reply to **Hon. CAROLYN PICKLES** (29 November 2000).

The Hon. R.I. LUCAS: In February 1998 the government advertised in the major daily newspapers requesting proposals for a range of advisory roles. This included communications.

In early March 1998 the government considered the proposals received in response to the advertisement and those subsequently submitted through the lead advisers.

The government considered that none of the proposals submitted in response to the public tender met the government's requirements for high level strategic communications advice.

Accordingly, the decision was made to separate the task into the following roles:

- High level strategic communications advice
- Provision of specialist communications support services.

A proposal was submitted by Business Development Communications Network (BDCN) through the lead advisers, with persons proposed to provide services being Mr Geoff Anderson (director) and Ms Alex Kennedy (consultant contracted to BDCN).

The lead advisers held discussions with a number of communications service providers who submitted proposals to the lead advisers and ultimately recommended BDCN as the preferred consultants.

BDCN were interviewed on 28 April 2000.

On 7 May 1998 the Asset Sales Cabinet Committee which includes the Premier and Treasurer approved the appointment of BDCN to provide strategic communications advice.

A contract was executed on 12 May 1998.

No work was done prior to that date and indeed, no accounts were issued to Treasury and Finance for payment prior to 12 May 1998. The first account was for the period from 12 May 1998.

The Auditor-General's report refers to a document as the basis for the allegation that BDCN commenced work on 27 April 1998, the day before the firm was interviewed. This document was merely a high level dot point summary, which appears to have been produced in May 1998, and it does not refer to the date of the appointment of BDCN or any other advisory group.

The 'full team of consultants' referred to in the document appears to refer to the lead advisers, legal consortium and accounting advisers, all of whom had been appointed by the time the document had been prepared, and reflected the size and importance of those consultancies. A number of other consultants such as PHB (economic consultant) and Kinhills (project managers) in addition to the communications consultant were not appointed until after that date.

As with each of the consultancy agreements, the communications advisers were contracted to the Treasurer, as responsible minister.

SCHOOLS, ENERGY DRINKS

In reply to **Hon. Carmel ZOLLO** (4 April).

The Hon. R.I. LUCAS: The Minister for Education and Children's Services has provided the following information:

1. Decisions about products sold in school canteens are made within the local school community. No central records are kept of the products supplied through school canteens.

2. Pursuant to Education Regulation 103, responsibility for the operation of school canteens rests with school councils. The *School Canteen Manual*, (published with the Children's Health Development Foundation and SA School Dental Services in 1997) explicitly describes the importance of school canteens in promoting health. The manual does not mention high caffeine drinks, but it does talk about the Australian *'Dietary Guidelines for Children and Adolescents'* which includes advice to 'encourage water as a drink'.

Some schools have health promoting school canteen policies, which would preclude supply of these products on the basis that they provide poor nutritional content.

3. No reports of this nature have been received by the department from schools.

4. Promotional material on healthy diets received from the Minister for Human Services is welcomed by the Minister for Education and Children's Services.

HINDMARSH SOCCER STADIUM

In reply to **Hon. NICK XENOPHON** (4 October 2000).

The Hon. R.I. LUCAS: I have been advised by the Attorney-General of the following advice received by the Crown Solicitor:

The Honourable Graham Ingerson was represented at the Hindmarsh Soccer Stadium Inquiry. On 14 November 2000 an account was rendered for counsel's fees in the amount of $13 326.50 and as at 1 December 2000 the account for work completed by solicitors for Mr Ingerson totalled $14 196.75. Legal representation and payment of the costs associated with the representation were formally authorised by Cabinet.

It should be noted that the Auditor-General is conducting this inquiry with the assistance of his own private sector legal team.

POPE ELECTRICAL AND PERRY ENGINEERING

In reply to **Hon. R.K. SNEATH** (27 March).

The Hon. R.I. LUCAS: During the receivership of Pope/Perry, the South Australian government in conjunction with the federal government worked closely with the receiver to facilitate the sale of the business as a going concern so as to maximise ongoing employment prospects.

Whilst the actions of both governments was successful in facilitating a sale, unfortunately the lack of orders in the short term resulted in only a relatively small number of employees securing ongoing employment.

However, as Perry is one of the local companies expected to secure contracts from the Alice Springs to Darwin rail project, future employment prospects look promising in the medium term.

In terms of payment of employee entitlements, the Department of Industry and Trade understands the receiver is endeavouring to maximise payments within the legal framework that determines payments to the various classes of creditors.

ALICE SPRINGS TO DARWIN RAILWAY

In reply to **Hon. CAROLYN PICKLES** (5 April).

The Hon. R.I. LUCAS:

1. The preferred bidder to construct the Adelaide Darwin Railway, the Asia Pacific Transport Consortium (APTC), developed a Local Industry and Aboriginal Participation Plan (LIAPP). This plan commits the consortium to source 75 per cent of the value of the goods and services required to construct the railway from SA and NT firms.

Thus, although LIAPP makes some reference to operational requirements and the wider benefits the rail may bring to South Australia and the Northern Territory, the local industry target refers specifically to the value of materials sourced for construction of the railway.

In order for local companies to win work on this project, they will need to provide goods and services at standards of competency, capability and commerciality equal to or better than those from outside South Australia and the Northern Territory.

With respect to the 110 wagons referred to, it is assumed that the question relates to the Australian Southern Railroad (ASR)'s recent bid to seek ballast wagons to increase the capacity of its Australia-wide operations. I am advised that this contract was not charged against the $1.3 billion Adelaide Darwin Railway construction project, so did not fall within the ambit of LIAPP.

Partners in Rail (PIR) had some involvement in the later stages of the tender process for that contract, in that it was invited by ASR to identify local firms that could be given the opportunity to bid. PIR identified to ASR several South Australian companies with the capacity and capability to complete such a contract.

The contract opportunity is still under review by ASR and it is understood that negotiations with several companies are continuing. The contract to supply the wagons has not yet been awarded.

2. Partners in Rail was established within the Department of Industry and Trade to assist the consortium to maximise SA industry's involvement in the project. To date Partners in Rail has received over 1 000 registrations of interest from South Australian firms keen to supply goods and services to the railway project.

The South Australian Government has committed to placing Partners in Rail's two SA Industrial Supplies Office (ISO) representatives in the Adelaide and Darwin procurement offices of ADrail, the consortium's design and construction arm, for the period of construction. Their role is to assist the consortium identify South Australian firms that have an interest in supplying goods and services to the project, and which have the capability to do so within the scope of works provided.

The point must be made that ADrail is solely responsible for the final selection of organisations that will be invited to tender for contracts. ADRail will also be responsible for awarding contracts, having regard to the commercial-in-confidence terms and conditions of LIAPP.

All local industry participation recorded by the consortium will be reported regularly and subject to independent audit.

On 25 January 2001, Mr Franco Moretti, bid director, APTC, announced that the consortium has placed $240 million worth of contracts with South Australian and Northern Territory contractors and suppliers. To date, seven South Australian companies have been awarded contracts with an estimated value of $150 million.

DOMESTIC VIOLENCE

In reply to **Hon. CARMEL ZOLLO** (10 April 2001).

The Hon. K.T. GRIFFIN: I have been advised by the Director of the Crime Prevention Unit of the following information:

Through the NDV Project, information on the cultural background of victims and perpetrators has been collected in the two pilot sites (South Coast and Port Adelaide Local Service Areas). The information is gathered through the police reports, and consequently the information relies on the accuracy of that information. It should be noted that in some circumstances, victims and perpetrators are reluctant to provide that information to Police.

The evaluation of the NDV Project will be completed in October 2001. The issue of diverse cultural backgrounds will be explored in the evaluation.

EXOTIC DISEASES

In reply to **Hon. T.G. ROBERTS** (10 April 2001).

The Hon. K.T. GRIFFIN: The Deputy Premier, Minister for Primary Industries and Resources, and Minister for Regional Development has provided the following information:

The question and explanatory remarks refer to 'exotic diseases' which are diseases that don't occur in Australia. From the context of the question, I believe the honourable member is actually referring to endemic diseases, that is those that do occur in Australia.

Programs operating in South Australia for the investigation and control of endemic animal diseases are undertaken with close liaison with industry. Under the *Livestock Act 1997*, which regulates animal disease control in this State, we have established Industry Advisory Groups to represent community and industry interests. These Advisory Groups have been particularly successful in the sheep and cattle industries where government and industry have very good mutual understanding of issues and perspectives.

For Bovine Johne's Disease, there is additional government and industry consultation through a Bovine Johne's Disease/Enzootic Bovine Leucosis Control Committee and close liaison with the Livestock Executive of South Australian Farmers' Federation, the South Australian Dairyfarmers' Association and the Australian Veterinary Association.

For Ovine Johne's Disease (OJD), the Sheep Advisory Group is supported with technical advice from a broad-based South Australian OJD Committee chaired by an industry representative, and PIRSA has facilitated local support and liaison groups in each of the areas of South Australia where OJD has been detected (being Kangaroo Island and Burra, and more recently Spalding and Millicent).

Government and industry leaders are very sensitive to the needs of affected producers and local communities, as well as recognising the interests of broad industries, and have in place appropriate policies and protocols for animal disease control.

Constructive criticism and communication through the above channels is welcomed, and will ensure that the sectional interests of all parties are recognised in the development and implementation of these programs.

DOMESTIC VIOLENCE

In reply to **Hon. R.R. ROBERTS** (10 April 2001).

The Hon. K.T. GRIFFIN: I have been advised by the Director of the Crime Prevention Unit of the following information:

The NDV Project was piloted in Port Adelaide and South Coast Local Service Areas for a number of reasons. Firstly, the Superin-

tendents of both Local Service Areas were strongly committed to the project; secondly Child and Family Investigation Units (CFIU) operate in both LSAs, and thirdly, both LSAs are areas in which domestic violence is a significant issue.

Officers from the CFIU undertook the interventions in both LSAs. During the course of the pilot 12 months, a total of 1681 interventions were recorded across both areas (826 in Port Adelaide: 855 in South Coast).

The evaluation of the NDV Project is currently underway and is expected to be completed by October 2001. One of the many key issues for consideration in the evaluation is the extent to which the project can be extended to other settings. For example, the applicability of the model to rural areas, and to areas with indigenous communities, needs to be explored. The role of CFIU officers in country areas is also a matter which will need to be considered with SAPOL. The Steering Committee that guided the NDV Project (which included senior officers from SAPOL and the Crime Prevention Unit) recognised the issue of replicability to rural and other settings, and SAPOL has undertaken to consider these matters following the outcome of the evaluation report.

From information received, I understand services in Port Pirie and Yorke Peninsula saw 72 and 38 domestic violence related clients respectively in the 1999-2000 financial year. Service providers in these areas report that domestic violence is the most common presenting problem for clients seeking emergency accommodation. Furthermore, December and January are generally recognised as the most vulnerable time for domestic violence incidents, mainly due to the family and monetary pressures associated with Christmas and the holiday period.

STATUTES AMENDMENT (ROAD SAFETY INITIATIVES) BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a bill for an act to amend the Motor Vehicles Act 1959 and the Road Traffic Act 1961. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this bill be now read a second time.

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

Leave granted.

The bill amends both the *Motor Vehicles Act 1959* and the *Road Traffic Act 1961* to provide for a range of measures to improve road safety practices across South Australia—and to reduce the State's road deaths, injuries and related health costs.

Last year (2000) road fatalities in South Australia rose to 166—a 9.99 per cent increase over the previous year, the highest increase of any Australian State and Territory. The majority of these deaths occurred in rural areas of the State (99 fatalities) and the majority of the people injured or killed on rural roads were rural people.

In November last year all Commonwealth, State and Territory Ministers of Transport endorsed a new National Road Safety Strategy to the year 2010. The Strategy includes a National Target to reduce road fatalities by 40 per cent per 100 000 population—from 9.3 in 1999 to no more than 5.6 in 2010.

Based on the National Fatalities Target, the South Australian challenge is to reduce road fatalities to no more than 86 by 2010—65 less than in 1999, when South Australia's total fatalities were 10.1 per 100 000 population.

While I accept that a target of 86 road deaths by 2010—plus any amount of injuries—represents a tragic and far from acceptable loss of life each year on our roads, the target has been set acknowledging that the rate of decline has remained relatively flat since the early 1990's. A similar pattern is evident in the National Road Toll.

South Australian Road Fatalities
1970, 1980, 1990-2000

YEAR	FATALITIES
1970	349
1980	269
1990	225
1991	184
1992	164
1993	218
1994	163
1995	182
1997	149
1998	168
1999	153
2000	166

The highest number of fatalities of 382 were recorded in 1974.

The road safety measures embraced in the bill have all been in place (in various forms) in all or some other States and Territories for some years. They all complement and reinforce the drink driving and speeding measures that over time have shown to significantly influence the road toll trends in South Australia.

Overall, the package is designed to send a strong message to the community about the unacceptability of certain behaviours on the road, as well as ensuring anyone who disregards the safety of others on the road, is appropriately penalised.

1. Unlicensed Drivers (Clause 4)

The issue of unlicensed drivers is one that frequently arises, usually following an adverse Court case—such as that recently completed in which a young girl tragically lost her life when a car driven by an unlicensed driver was involved in a crash. In this case, it is understood the driver had never held a licence—and was already being investigated by police in relation to a number of prior traffic offences.

It is difficult to gauge accurately the extent of the problem of unlicensed driving. However, available statistics indicate that two percent of fatal crashes involve an unlicensed driver. An even greater number of unlicensed drivers are involved in non-fatal crashes.

Unlicensed driving reflects a total disregard for the basic principle of road safety that a driver must be trained, and prove their competency to an appropriate standard, before being allowed to drive on the State's roads. Without this training, the unlicensed driver is placing their own life—and the lives of other road users—at serious risk.

Generally, comprehensive and third party property damage motor vehicle insurance policies will not cover vehicles damaged in a crash if a vehicle is being driven by an unlicensed driver. Consequently, an innocent party can be left in the position of having to meet the full cost of repairs to their own vehicle notwithstanding that the other party was at fault.

The present penalty for unlicensed drivers in South Australia is a maximum fine of $1 250, with an expiation fee of $188. The choice of expiating the offence implies that this infringement is relatively minor.

The insufficiency of the current penalty in South Australia becomes very apparent when compared with the penalties applied in other jurisdictions. Only Western Australia has a lower penalty than that applying in South Australia. All other jurisdictions have a minimum penalty of at least $2 000—and all include an option of imprisonment with periods ranging from 3 months to 3 years.

The bill therefore proposes a significant separation amongst categories of offence. The proposed section 74(1) deals with situations were a person is driving unlicensed but has previously held an appropriate licence. This would include, for example, people who might have let their licence lapse through forgetfulness or while they were overseas. While there is no wish to sanction any form of unlicensed driving, the bill recognises this is a lesser offence and the current maximum penalty of $1 250 is maintained. It is proposed to continue to allow this offence to be expiated.

In contrast, the proposed section 74(2) deals with persons who have never held a drivers licence or who do not hold a licence for the class of vehicle they are driving—for example a heavy vehicle licence. This is the most serious offence and the penalty is appropriately severe—a fine of up to $2 500 for a first offence. A second offence within a three year period will attract a penalty of up to $5 000 or 12 months imprisonment, with an automatic disqualification from holding or obtaining a drivers licence for a minimum period of three years. This offence will not be expiable.

It should be noted that persons who drive when they have been disqualified from holding a licence or while their licence is suspended—that is, persons who are deliberately flouting a previous penalty—are already addressed under section 91 of the *Motor Vehicles Act*. This is an extremely serious offence with an appropriately severe penalty—imprisonment for up to six months, or up to two years for a second or subsequent offence.

Meanwhile, it is noted that New Zealand has recently introduced regulations for the immediate roadside impounding of vehicles driven by unlicensed or disqualified drivers. This initiative will be monitored by the Government, to assess its effectiveness as a road safety measure.

In addition, Transport SA have been asked to investigate options that would require persons who have been disqualified from driving due to either a road rules / safety test or irresponsible practices to undertake a training or awareness course before they are able to regain their licence. The premise for such an initiative is that a driver who loses their licence for irresponsible behaviours should not automatically regain their licence, but be required to demonstrate their driving competence and/or be made aware of the consequences of poor driving practices. Already this Government has introduced the Driver Intervention Program for disqualified holders of learner's permits and provisional licences and essentially the options to be investigated would build on the success of this program.

2. Production of a Driver's Licence (Clause 5)

Currently, Section 96 of the *Motor Vehicles Act* requires that if a driver of a car or motor cycle does not have a licence immediately available, it must be produced within 48 hours at a police station designated by the police officer, but conveniently located for the driver. This means that the police officer later viewing the licence will invariably not be the apprehending officer. It is therefore impossible to be sure that the person producing the licence was in fact the person spoken to by the police in the first instance. The use of photographic licences has reduced the potential for a person to produce a forged licence or one issued to another person. However, it does not prevent the giving of fraudulent information to the apprehending officer.

The offence in section 96 carries a maximum penalty of $250 and is not expiable. It is proposed to amend section 96 to create an expiable offence for the driver of a car or motor cycle who fails to produce his or her licence within seven days to a specified police station. The driver will be required to provide a specimen signature to the apprehending officer. The increase in time allowed for producing the licence—from 48 hours to seven days—will allow the Police to contact the nominated police station and advise of the details of the driver. The requirement for a specimen signature will be used to confirm the identity of the person subsequently producing a licence at a police station. The Commissioner of Police must ensure that specimen signatures obtained under the provision are destroyed when they are no longer required by the police. This will be implemented by the Commissioner putting in place procedures for dealing with the specimen signatures which police officers will be obliged to comply with as part of the performance of their duties.

In the event that the driver does not comply with the requirement to produce a licence within seven days, an expiation notice will be issued.

The proposed amendments reflect Victorian practices which have proved to be very successful:

- persons who are not carrying their licence at the time of the police request, are provided with a written direction which they have signed—serving as a reminder that they will incur an expiation fee if they fail to produce their licence at the nominated police station within seven days;
- the driver's signature provides police with a cross-check of the driver's identity. (In Victoria, it has been found that drivers are more reluctant to provide a false identity if they are required to produce a signature in addition to their name and address—which, in turn, eliminates the need for the police to seek additional identification documents to support the claims of the person reporting to them);
- with the introduction of an expiation fee, the offence is less resource intensive for the police, as currently, offenders can only be prosecuted through the Courts.

A combination of these factors in Victoria has led to an increase in drivers carrying their licences when they are driving—which, in turn, has aided the police in Victoria in detecting and tracing stolen vehicles and in identifying and enforcing licence conditions.

The proposed amendments to Section 96 do NOT introduce the New South Wales' requirement—where, for some years, it has been compulsory for ALL drivers to carry their licence at all times while driving. Nor does it extend to all South Australian drivers the compulsory carriage of a licence that already applies for drivers of heavy vehicles, learner drivers, provisional drivers and bus drivers, when driving.

3. Excessive Speeding (Clauses 6 and 7)

Currently, disqualification from holding a licence is not a penalty for any of the existing speeding offences in the *Road Traffic Act* (except indirectly through the accumulation of demerit points).

Currently, the police deal with excessive speeding by charging the driver with dangerous driving under section 46 of the *Road Traffic Act*, which states that 'a person must not drive a vehicle recklessly or at a speed or in a manner which is dangerous to the public'. The disadvantage of dealing with excessive speeding in this way is that there is no clear guidance to drivers, the police or the Courts about the speed limits that will lead to licence disqualification—a deficiency magnified by the fact that prosecution of the offence necessitates calling of witnesses to give evidence that the speed was dangerous in the circumstances.

It is proposed that the general offence of reckless/dangerous driving should remain. However, to reflect the high road safety risk associated with excessive speed, it is proposed to create a new specific offence of exceeding any maximum speed limit by 45 km/h or more. This offence will apply equally to exceeding the maximum speed for a class of vehicle (eg B-doubles that attract a maximum speed limit of 100 km/h); to exceeding the maximum speed for a class of person (learner's permit and provisional licence holders) or when a lower maximum speed is set to cater for particular circumstances (road workers present, school zones or local/residential street limits).

The proposed penalty for the new speeding offence is consistent with that of the general offence of reckless/dangerous driving—that is, a minimum three months' licence disqualification. The penalty would not be expiable, and would only apply where the driver is convicted by a Court. Where a speeding offence is detected by a speed camera, an expiation notice would not be issued. Instead, the police would undertake an investigation to establish the driver of the vehicle who would then be prosecuted through a Court.

NSW, Victoria and the Northern Territory have already introduced compulsory loss of licence for excessive speeding—above 30 km/h—while Western Australia, Tasmania and the ACT are at various stages in advancing similar proposals.

4. Mobile Random Breath Testing (Clause 8)

Random breath testing (RBT) stations have proven to be a very effective road safety measure—addressing both education and enforcement issues. However, the operation of RBT stations, as currently allowed for under the *Road Traffic Act*, are not an effective—or an efficient—use of police resources in areas of low traffic volumes. Also, RBT sites established on multi-lane roads require a portion of the road to be closed, creating a traffic hazard and unnecessarily interfering with the free flow of vehicles not identified for testing.

Mobile RBT will overcome these difficulties—and enable testing to be undertaken in conjunction with normal police patrol duties.

Mobile RBT entails an extension of the existing RBT powers set out in section 47E(2a) of the Act, to remove the need for the police to establish reasonable grounds prior to stopping a vehicle and/or requiring a driver to submit to an alcotest or breath analysis. Such a measure does not create a situation unique in South Australian law. There are many examples of provisions in the *Road Traffic Act*, the *Harbours and Navigation Act*, the *Summary Offences Act* and the like where a person must respond to police or an authorised officer without the need for a reasonable belief that an offence has been committed.

The matter of mobile RBT was considered in 1998 by the Environment, Resources and Development Committee, as part of its consideration of rural road safety issues.

The Report notes (pg xvi) "The Committee is supportive of further investigation into the introduction of mobile random breath testing units whilst noting the concern of the public in relation to the potential infringement of civil liberties. The Committee is aware that current detection methods are NOT working in rural South Australia, and understands that there needs to be a new approach.

Mobile RBT is already used in ALL other Australian jurisdictions. However, to accommodate these concerns, it is proposed that mobile RBT be available to police only during recognised holidays and on four other occasions within any given twelve month period (each of 48 hours' duration), to be determined by the Minister for Police, Correctional Services and Emergency Services. Holiday periods will include long weekends and school holidays—periods of maximum on-road activity. At these critical periods in road safety terms, the mobile RBTs will also act as a disincentive for the intransigent drink/driver, through an increased prospect of being detected.

5. Digital Cameras (Clause 9)

Digital cameras are capable of operating in low light settings and, if used in darkness, require a low intensity flash to illuminate the vehicle. Thus the technology is most suitable for enforcement of speeding by heavy vehicles in isolated areas. Currently, the camera flash can be seen at long distances and drivers may therefore be

warned of the presence of cameras, thereby negating their deterrent effect.

To allow for the introduction of digital cameras in South Australia, the *Road Traffic Act* must be amended to provide for the definition of "photograph" to include a digital, electronic or computer generated image. The regulations which prescribe the procedure for operation and testing of speed cameras will also need to be amended to cover both conventional and digital cameras.

Security concerns arising from the introduction of digital cameras have been addressed. Privacy is assured as the images will not be accessible to unauthorised persons. Encryption will be required at the time the information is electronically transmitted from the camera—and images will not be able to be viewed without the encryption key. To prevent the alteration of the digital image and/or the information associated with it, the original image is burnt electronically onto a magneto-optical disc which forms part of the camera and traffic speed analyser unit. Once burnt onto the disc, these images cannot be overwritten. This eliminates the risk of tampering, as any attempt to do so will be obvious to the operator viewing the images—and the batch can be rejected immediately.

NSW, Victoria, Tasmania, Northern Territory and the ACT have all introduced digital technology for cameras used to detect speeding offences

6. Fixed Housing Speed Cameras (Clause 11)

Fixed housing speed cameras are already used in New South Wales, Victoria and Tasmania—in tunnels, on bridges and on freeways. In a number of overseas countries, the fixed housings represent the normal way of mounting speed cameras—rather than on vehicles or portable tripods as is generally the case in Australia.

Fixed housing speed cameras can operate on either wet film or digital photography. They enable a more resource-effective use of speed/red light cameras at road crash black spots—or on a long stretch of road when rotated through a number of fixed housings. Research has shown that vehicle speeds are reduced around the fixed speed camera locations—and that they are particularly effective in addressing speeding by heavy vehicles.

The *Road Traffic Act* currently provides for the operation of fixed housing cameras. However, section 175 which covers proving the accuracy of equipment used to detect offences states that the traffic speed analyser component of a speed camera will be taken to be accurate "…on the day of a test and the day following." This precaution has long been required for mobile cameras which are set up on the side of the road or mounted in a motor vehicle. However, the precaution is not necessary for speed cameras in fixed housing because their calibration and accuracy remains stable for much longer, thus eliminating the need for daily testing.

Based on the practice in other jurisdictions, testing for accuracy for fixed cameras will only be necessary every 7 days. The bill provides for this new timeframe.

In line with Government policy, Transport SA will work with the Police to ensure that appropriate signage is installed to alert motorists of the presence of fixed housing speed cameras. In addition, the Minister for Police, Correctional Services and Emergency Services will work with the Police to develop options to inform the public, via the media and the internet, of the location of cameras.

Overall this road safety package focuses on extra enforcement and educative measures relating to drink driving and speeding, in an earnest effort to reduce two of the principal causes of road crashes in South Australia—and ultimately reduce road deaths, injuries and related health costs across the State.

I commend the bill to all honourable 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 MOTOR VEHICLES ACT 1959

Clause 4: Substitution of s. 74

This clause substitutes a new section 74 into the principal Act. Subclause (1) makes it an offence, punishable by a maximum fine of $1 250, for a person to drive a motor vehicle on a road if the person is not authorised to drive that class of motor vehicle on a road but has previously been so authorised under the principal Act or the law of another State or Territory.

Subclause (2) makes it an offence for a person to drive a motor vehicle on a road where the person is not and has never been authorised, under the principal Act or the law of another State or Territory, to drive a motor vehicle of that class on a road. The maximum penalty for a first offence is a fine of $2 500 and for a subsequent offence a fine of $5 000 or imprisonment for one year. In addition, subclause (5) provides that a person convicted of a subsequent offence against this provision will be disqualified from holding or obtaining a licence for a minimum of three years.

Clause 5: Amendment of s. 96—Duty to produce licence

This clause amends section 96 to provide that a person who does not produce his or her licence immediately in response to a request by a member of the police force must provide a specimen of his or her signature and must then produce the licence within seven days to a specified police station. Provision is also made for the destruction of specimen signatures.

PART 3

AMENDMENT OF ROAD TRAFFIC ACT 1961

Clause 6: Insertion of s. 45A

This clause inserts a new section 45A in the principal Act making it an offence, punishable by a minimum fine of $300 and a maximum fine of $600, to drive a vehicle at a speed that exceeds, by 45 kilometres per hour or more, the applicable speed limit. In addition, a person convicted of such an offence will be disqualified from holding or obtaining a licence for a minimum of three months.

Clause 7: Amendment of s. 46—Reckless and dangerous driving

This clause amends section 46 to ensure that its disqualification provisions are consistently worded with other disqualification provisions in the principal Act.

Clause 8: Amendment of s. 47E—Police may require alcotest or breath analysis

This clause amends section 47E to give the police power to require the driver of a vehicle to stop the vehicle and submit to an alcotest during a prescribed period (which is defined in proposed subclause (8)).

Clause 9: Amendment of s. 79B—Provisions applying where certain offences are detected by photographic detection devices

This clause inserts a definition of 'photograph' into section 79B of the principal Act, so that term will include an image produced from an electronic record made by a digital or other electronic camera and makes other consequential amendments.

Clause 10: Substitution of s. 79C

This clause replaces the offence of interfering with photographic detection devices and provides that a person who, without proper authority or reasonable excuse, interferes with a photographic detection device or its proper functioning is guilty of an offence punishable by a maximum penalty of $5 000 or imprisonment for one year.

Clause 11: Amendment of s. 175—Evidence

This clause amends section 175 of the principal Act to provide that a certificate tendered in proceedings certifying that a traffic speed analyser had been tested on a specified day and was shown by the test to be accurate constitutes, in the absence of proof to the contrary, proof of the facts certified and that the traffic speed analyser was accurate to that extent not only on the day it was tested but also on the day following the day of testing or, in the case of a traffic speed analyser that was, at the time of measurement, mounted in a fixed housing, during the period of six days immediately following that day.

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

SUPPLY BILL

Adjourned debate on second reading.

(Continued from 6 June. Page 1749.)

The Hon. P. HOLLOWAY: I wish to make a few comments about various matters in relation to the Supply Bill. Of course, the government has now brought down its budget for 2001-02, and when the Appropriation Bill reaches the Council we will have the opportunity to discuss the budget in more detail. At this stage I wish to make some comments about what is happening in relation to electricity. That is very important to the Supply Bill because, clearly, what is happening in our electricity markets is very important for the future economy of this state.

Just today the government released the interim report of the NEM task force. I would like to make some comments on this report. I have had this report for only a short while but, because of its importance in the light of the COAG meeting tomorrow (at which the future of the electricity market is to be discussed), I would like to make some initial comments on my reaction to this report. The first thing we can say is that what will happen as a result of this report will be nothing in relation to the price rises faced by the businesses of this state on 1 July. However much benefit might come from the recommendations of the task force, they certainly will have no impact for those businesses that have already signed contracts or that are in the process of signing contracts for electricity.

We know that there will be very savage increases. For example, the other morning on ABC radio I heard the secretary of the cricket association, I think it was, pointing out that the electricity bill for that organisation had increased from $130 000 to nearly $200 000. If I heard him correctly, I think that the increase was something like $65 000—that is on a bill that was previously $130 000. One can see that that is the sort of increase that large users of electricity are facing within our community. Clearly, that can have only a very damaging and dampening effect on the economy of this state.

Indeed, John Cambridge, Chief Executive Officer of the Treasurer's own department (the Department of Industry and Trade), according to a report in this morning's *Advertiser*, told the Economic and Finance Committee yesterday that, 'rising electricity prices made it difficult to attract investment'. Clearly, the signs are evident that what is happening in the electricity market will have a very damaging effect on the economy of this state. Of course, reductions in the government's budget—and it did reduce some costs for business, particularly those relating to payroll tax, and we would all welcome that—will be minuscule compared to the impact that most businesses will face from rising electricity prices, and there was nothing whatsoever in the budget that sought to address that problem.

Of course, in relation to its electricity policies, the government has been playing rapid catch-up. For some time now, members on this side of the parliament have been raising concerns about where the national electricity market was headed. While we have supported the concept of a national electricity market, it has been plainly obvious for some time that there are significant problems in relation to the operation of the national electricity market. We have raised those concerns on numerous occasions in this parliament. When I specifically asked the Treasurer whether he had concerns about the operation of the market, he answered to the effect that all it needed were a few minor adjustments here and there but, by and large, it was working well.

Of course, we now know that it was not working well, and all those warning signs about which everyone else in the community—other than it seems this government—were aware have sadly come true. My leader in another place, Mike Rann, made a speech earlier this year (in March) to the Institute of Engineers out of frustration at the lack of action this government had taken on electricity. He called for the government to take a number of initiatives. He said that the government should ensure that, at the meeting of COAG, that is, the meeting between government leaders (the Premiers and the Prime Minister), the issue of electricity should be put firmly on the agenda.

He also suggested that there should be a ministerial council involving ministers of the states and the commonwealth who are responsible for electricity. I think that is a fairly obvious requirement in respect of the electricity market. After all, we have had ministerial councils in relation to health and virtually every other ministerial portfolio. I think there are about 20 or 30 ministerial councils in this country that look at significant matters. Why would we not have one in relation to electricity, given its importance? The figure that I recall from the Hilmer report was that it was something like a $60 billion a year industry. So, given that we now have a national market, why would we not have a council of ministers on such a substantial and significantly important matter?

As I said, it was up to the opposition leader to first call for this back in March. Of course, within hours of the leader doing that, the Premier responded with the announcement that he would seek for electricity to be made a priority issue at the COAG meeting. In recent days we have also seen that the Premier has taken up the other call that the Leader of the Opposition has made to establish a ministerial council of ministers responsible for electricity matters. What is almost a joke is the press release that the Premier put out to try to explain his position on this. Given that he was dragged kicking and screaming into this matter, it is incredible that in his press release, which was issued today, the Premier said:

> . . . the national electricity market, signed off by the Labor Governments of the early 90s—

and I will say more about that in a moment—

> has some serious flaws.

He has finally discovered that after we have been telling him so for years. I point out that it was John Olsen himself who devised the operation of the electricity market in this state. Sure, the concept of a national competition policy was devised by previous federal and state Labor governments back in the early 1990s, but the details of the competition policy agreement were signed off by Dean Brown as Premier—first in 1994 and later in 1995. South Australia was the lead state in terms of introducing legislation on the electricity market.

The simple fact is that all the details of the operation of the electricity market have been devised since those days in about 1995. For the Olsen government, having introduced the legislation and been involved in all the negotiations, to try now to disown it is incredulous. It will not wash. Personally, I hope that the Premier keeps on making statements like this, because everyone knows that they are false and no-one believes him. It is just a cry of desperation. I think that the more he goes on making this stupid cry of desperation to the public, the less he will be believed—and the less he will deserve to be believed. The press statement states further:

> That is being seen by rapidly rising prices in SA, Victoria and NSW and by the fact the approval process for interconnection is ridiculous. That is why I fought so hard to ensure this issue is addressed at a national level.

As I said, he responded within hours of the Leader of the Opposition's speech calling for this to be given some publicity. Indeed, every other state of Australia agreed on a ministerial council to look at these matters months ago but, as I said, the Premier is desperately trying to play catch up on this, because this government well and truly took its eyes off the ball in relation to electricity matters.

The sale of the electricity assets was conducted by a merchant bank. The total preoccupation of this government—and the Treasurer, in particular, who handled the sale—was with getting the maximum price. No-one within the Olsen

government was looking at what might happen after the sale of the electricity assets and how they might be managed. That was not a focus for the merchant bankers and the Treasurer, who were running the sale. They did not bother about that. The brief of the merchant bankers was to maximise the sale price. They had a success fee bonus based on the price they got for it. They did their job. They got a very large success fee, but they did not look at the long-term implications that the market structure and the way the sale was conducted would have on the electricity market in this state. That is not just me saying that as a member of the opposition: some of the government's allies in another place have come to the same conclusion. In a speech in the House of Assembly on Tuesday, the member for Chaffey, who has supported the government on most matters, made her views known about the electricity issue. I think she summed it up fairly well when she said:

> It is unfortunate that we see no mention within this budget of the electricity issue. What 2 800 to 3 000 businesses in South Australia are facing is totally unacceptable, in my view, and I think it is irresponsible of this government to suggest that businesses should lie down and take what is being dished out, particularly from a government that purports to have the interests of the business community at heart. I think the Olsen government is kidding itself if it believes that South Australians will except its attempt to pin the blame for the electricity pricing debacle wholly and solely on the national electricity market, when privatising our assets has compounded the problem.
>
> It was entirely the Olsen government's responsibility to prepare South Australia for entry into the national electricity market, and it chose to create a submarket in this state to force up the sale price of our generators, and this in turn has resulted in the exorbitant price increases now faced by South Australian businesses. This is a very sad indictment on a government that purports to support those very people.

The member for Chaffey, as a supporter of this government, has certainly given the lie to claims that, in some way, the structure of the market was due to decisions that were made 10 or 15 years ago.

I would like to add one more comment of the member for Chaffey. She concluded her speech by saying:

> I still believe—and I hope—that the Premier will heed the calls for the power matter to be taken out of the Treasurer's hands and be delivered into the hands of an individual who has energy as their sole purpose, so that person can look at the options for the interests of South Australia and not for the interests of those people who made decisions that they are not prepared to go back on.

All I can say to that is: hear, hear! I was referring to the interim report of the NEM task force that was issued today. As I commented earlier, unfortunately nothing is suggested here that can change the electricity prices that are already in the system. Most contracts, certainly those that AGL were offering, are for five years, but I have heard that there are some three-year contracts around. Given that most businesses will be locked into electricity price contracts for three or five years, whatever benefits that will come out of this task force will, as far as those customers are concerned, not be felt for at least that three or five year period until those contracts expire.

I refer to the recommendations of the task force. The task force recommended, first, that the governments of the NEM jurisdictions should immediately fast track the review of rebidding being carried out by NECA. The practice of rebidding is something that the industry regulator has been drawing to our attention—with increasing desperation almost, I would suggest—in the speeches that he has made publicly over the past nine months. You can find plenty of references in speeches that the industry regulator made late last year where he draws attention to the problem of rebidding. Of course, that matter is currently, and has been for some time, under review by NECA. I guess that all of us hope that, as a result of the study, some of those practices may be mitigated. However, that has been going on for some time.

The next recommendation is: direct NEMMCO to remove operational restrictions on networks that artificially spike or drive up prices, such as derating of the Heywood interconnector for lightening and storms; using strict technical constraints when not absolutely necessary—that is a fairly technical matter and, I guess, fairly uncontroversial; and put in place an inter-regional network planning approach that ensures that appropriate projects are identified and facilitated and approves projects within a reasonable time.

That is one of the issues, of course, that the opposition has been drawing attention to for some time, particularly in relation to interconnectors: that the procedures that have been used to approve these projects have been quite unsatisfactory. Indeed, I can remember making a speech in this place, I think in August 1998, where I drew attention to the original decision that was made on the Riverlink interconnector and how it was based on a particular test. In fact, I think there were two tests—a public interest test and a consumer interest test—and NEMMCO had to seek legal advice as to which test it would adopt.

I can remember raising that issue almost three years ago, at which time I suggested that this was a matter that needed to be seriously addressed. So, finally, even if it is some three years later, if we can look at correcting some of those decision-making flaws, it is all well and good that we should do so. The task force then says that those actions that I have just mentioned should be in place by 1 November this year. The report also states:

> The task force believes that, as a matter of urgency, the NEM governments should also:
> - review the governance of the NEM so that governments provide appropriate policy guidance, and ensure that the roles of the market bodies and the ACCC are clear and have minimal overlaps;

Again, I think that comes back to the fact that we need a ministerial council. The opposition has been calling for that for months and, indeed, the Premiers of the other states have long accepted the need for such reform. The report continues:

- ensure that the relevant bodies urgently review:
  - the code. . .
  - the code change process. . .
  - the inability to develop firm contracts between regions;
  - approaches to network pricing;
  - how gas interconnections can be maximised;
  - problems that delay timely capacity augmentation;
  - the level of the market cap. . .
- put in place a national strategy should it be put in place:
- for demand side participation in the NEM; and
- consider a Productivity Commission review of the NEM to be completed within 12 months.

Again, I would suggest that those recommendations are fairly straightforward and they have all been around for a long time. For example, the recommendation that the Productivity Commission review the national electricity market is one that the Electricity Supply Industry Association has been advocating since at least last year. As a regular reader of the *Electricity Supply* magazine that is published by the ESAA, I have noted that it has been calling for this Productivity Commission review for some time. I note that the Chairman of the Board of ESAA said back in January this year:

> ESAA has formed the view that an effective mechanism for reviewing the market would be an inquiry by the Productivity

Commission, and it has asked the federal government to issue the necessary referral to allow this study to commence as soon as possible in 2001.

So, ESAA made that recommendation back in January this year. I suppose it is fair enough that this interim report should reinforce that recommendation some five months later.

In respect of the other recommendations, there are a few interesting observations that come with them. For example, in relation to gas interconnection, the interim task force report says that in parallel to determining their attitude to electricity interconnection, governments must continue to examine how to maximise the interconnection of gas basins. In other words, we need more gas pipelines and gas supply. Again, that is something for which the opposition has been calling for some time. It was one of the 15 points that the opposition produced a month or two ago in its Direction Statement on Electricity. It is fairly obvious that this state needs more gas. Indeed, I would suggest that it is an absolute indictment of the Olsen government that we are in a situation now where there is insufficient gas to supply our electricity into the future.

I was absolutely staggered, in listening in the House of Assembly today, to hear the Premier say, 'Well, at least we are doing something now'. Exactly what he is doing was not clear, but he said, 'We are doing something now. Why didn't you do it 10 years ago?' The Treasurer has used a similar statement. Why on earth would you build a gas pipeline eight or 10 years before you need it? The thing is that the gas situation has reached a critical point over the last summer period. It was really during the last summer period when this state needed additional gas supplies.

Given that it takes two or three years to build a gas pipeline and perhaps a year or two to plan it, obviously the planning process we needed to put in place was about five or six years ago, around 1994 or 1995. That is when the decisions should have been made. Unfortunately, this interim report does not really tell us how we might proceed. It just says that governments must continue to examine how to maximise the interconnection of gas basins. I think we all agree with that but, sadly, it does not give us much direction about how we might achieve it.

I also wish to comment in relation to interconnectors and the recommendation of this interim task force. At the conclusion to the section on Transmission and Interconnection between Regions, the interim report says:

> Regulated interconnectors were favoured under the initial rules of the market but recent changes now favour market based interconnectors.

I find that an extraordinary comment. In fact, I think it is just plain wrong and I wonder whether or not it is a misprint by those who were preparing the interim report. What the industry has been telling us for some time now is that there were problems in relation to getting the approval of interconnectors. Indeed, the very point that I made earlier in relation to Riverlink—as I said, I raised this issue about the problems of the test nearly three years ago now—is that those rules in fact did not favour regulated interconnects but hindered them. In the *Electricity Supply* magazine of February 2001 there is an article by Anita Ward in which she is quoting Dr Charlie Macaulay from NEMMCO. This is his comment:

> 'There is a sentiment in the marketplace that there are too many hurdles for regulated investments and, in light of that, there is probably room for some streamlining and improvement.' He adds that any improvement to the current process will require code changes, and that lobbying will be required to encourage NECA and the ACCC to pursue those changes. Despite its shortcomings, Macaulay says the market benefit test, which was introduced in late 1999, is a significant improvement on the original customer benefit test in the code, which, he believes, was 'clearly flawed'.

Again, that was the matter that I raised in a speech some two or three years ago. The article continues:

> Had today's market benefit test been included in the code at the start of the national electricity market, Macaulay believes there would have been a 'reasonable' chance that TransGrid's proposed interconnection between South Australia and New South Wales (SNI) would have been approved. Instead the customer benefit test was applied and the project failed to meet the criteria for a regulated asset.

I would have thought that that surely suggests that this recommendation in the interim report is clearly wrong. In fact, regulated interconnectors were not favoured under the initial rules of the market, and recent changes have advantaged them slightly more although there is still a bias in the market against regulated interconnectors. I think that the quote that I have just cited clearly shows that that is the view of the industry.

I am really concerned that the interim report of the NEM task force should contain such a statement which, in my view, simply does not accord with the facts. Amongst some of the other recommendations that the task force makes in its interim report is one that says:

> The task force believes the member governments should commission a review to assess whether the current contract market is sufficiently liquid to support an increase in VOLL—

VOLL is the volume of loss load, the price that is set for electricity in the market. It is currently $5 000 a megawatt hour but, under the current ACCC determination, that market price cap will rise to $10 000 in April 2002. We know, of course, from questioning in the parliament over recent months that the state government did not oppose that proposed price rise when it first went before the ACCC. However much the government might regret it now, the fact is that we are in the position where this maximum price for electricity will double in April 2002, and it is going to be somewhat difficult to reverse that. I have digressed from completing the quote, which continues:

> . . . whether the current contract market is sufficiently liquid to support an increase in VOLL by April 2002 or whether the increase should be deferred by one year.

That is the full recommendation. Here is the task force saying that we need to investigate whether we should defer this for one year. Unfortunately, the government had let that get through uncontested, which again illustrates that we are in the difficult situation we are now in because of actions taken by the Olsen government. I must say that I support most areas where the interim task force suggested there should be more investigation of rules.

As the report says, it is looking towards trying to get some resolution of these by November 2001 but, sadly, that will be too late for those industries that have already signed or will have to sign within the next two or three weeks to substantially higher electricity prices. Those are the comments I wish to make in relation to electricity. As I have said, it is an important matter for the Supply Bill because the electricity rises that are currently in the pipeline are going to have a very disadvantageous effect on industry within this state and will create enormous problems over the next couple of years for all of us.

I wish to spend a few moments on the TAB sale. In a speech I made a week or two ago I commented that I thought it financially negligent of the government to be proceeding

with the sale of the TAB at this time when there was a question mark hanging over what would happen in relation to internet gambling. I was interested today, therefore, to receive a media release from the Executive Officer of the South Australian Racing Clubs' Council, which states:

> South Australia has called on the federal government to amend its proposed ban on interactive gambling.

I presume by 'South Australia' they mean the racing clubs. The press release continues:

> 'I can fully understand that the idea of people sitting at home playing poker machines and casino games in their living rooms has the federal government concerned, and it is commendable that the government is trying to prevent it. However, extending the ban to wagering is superfluous to the government's real objective and will do serious damage to the racing industry,' said the Chairman of the South Australian Racing Clubs' Council, Mr Brian Foster. 'Australian racing is a major agribusiness which is one of the mainstays of the economic base of regional Australia. Racing currently contributes some $6 billion per annum to GDP, 40 per cent of which is generated in regional areas. A total of 22 000 races are held around Australia each year. These are staged by 428 race clubs, of which 13 are metropolitan and 415 are located in country or provincial areas. Of the 22 000 races conducted each year, 23 per cent take place in cities—77 per cent take place in the bush or regional areas of Australia. If this ban is extended to wagering then it will mean the closure of country race clubs, which would do great damage to the social fabric of country communities.'

Later the release states:

> A leakage of only 3 per cent per annum in turnover from Australian TABs to overseas operators over the next 10 years would see the distribution of funds to racing cut by $115 million and would cause a significant rationalisation of country race clubs. Leakage of 10 per cent a year would mean a fall of $345 million in racing industry funding, which would cripple the Australian industry. Not only does this proposed ban pose a threat to country racing but it also discriminates against non-city dwellers.
>
> New technologies are playing an increasingly important role in improving access to services for rural Australians. TAB web sites are particularly important to communities where daily newspapers do not reach readers until the day's racing information is of little value or which do not receive a free to air race broadcasting service. The emerging importance of the internet to remote communities will lead country Australians to ask:
>
> · Why the government is investing public money in rural internet services whilst denying TABs the opportunity to use the internet to economically supply the information and race calls which are readily available to metropolitan residents through daily newspapers and racing radio stations;
> · Why TABs would want to continue to carry the cost of constantly improving internet racing information services when customers cannot use the internet to transmit their bets;
> · whether it makes any sense for punters to search the internet for betting information, and be forced to disconnect their internet service to use their telephone to place their bets.

For all these reasons I am urging the amendment of the Interactive Gambling Bill.

And, of course, that is a federal bill before the Senate at the moment. It continues:

> Shortly stated, there are no benefits to be obtained from including wagering in the bill and very real and serious costs to country Australia if it is not excluded.

That press release that I have just read highlights the point I made several weeks ago, when I said that I thought it was crazy to be selling the TAB at a time when there is this question mark hanging over the future of the industry. Not only will country customers be disadvantaged if the bill goes through the Senate in its current form but, clearly, it will affect the price of the TAB. I think that is the most important matter. Why would any of those people bidding for the TAB take the risk, when there is a bill before the Senate that would impact upon one section of the operation of the TAB and its potential income stream? Would you not as a buyer discount the price you would be prepared to pay for the TAB because of that threat hanging over the industry? The threat is obviously taken seriously enough by the country racing clubs if they put out a press release like this.

I again draw attention to the question of why on earth the government would have the TAB for sale at the current time when there is such significant uncertainty over the future operations of the TAB. That must have a significant and adverse impact on the price that taxpayers will receive for their asset. So, with that, I will conclude my speech on the Supply Bill. As I say, when we have a chance to debate the Appropriation Bill I will have much more to say about the measures this government has put out in its budget.

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

LAW REFORM (CONTRIBUTORY NEGLIGENCE AND APPORTIONMENT OF LIABILITY) BILL

Adjourned debate on second reading.

(Continued from 30 May. Page 1621.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition supports the bill. Parliament is moving to change the law of contributory negligence due to the High Court decision in the South Australian case of Astley & Others v. Austrust Ltd. My understanding is that my colleague in another place the member for Spence, who is also the opposition's spokesperson on law reform, has indicated strong support for this legislation over some period of time. So we are pleased to see that it is before us now.

My understanding of contributory negligence is the negligence of a plaintiff. If a defendant raises contributory negligence he or she is alleging that the plaintiff was negligent in such a way that he or she contributed to the damages claimed against the defendant. The majority of the High Court in Astley v. Austrust, namely, Justices Gleeson, McHugh, Gummow and Hayne, explained contributory negligence in this way:

> A pedestrian, for example, knows no duty of care to a speeding driver to avoid being run down but is guilty of contributory negligence if he or she fails to take reasonable care to keep a proper look out for speeding vehicles.

I understand that the issue in Astley v. Austrust was that Public Trustee company sued its solicitor for failing to advise the company on its potential liability to creditors of the trust and the advisability confirming liability to trust assets. Until 1990 Austrust Limited was known as Elders Trustee & Executor Company Limited, under which name it had traded since 1910. Until 1983 Elders Trustee had stuck to the traditional lines of business but from that time veteran Manager David Oakeshott was moved on and replaced by a manager determined to obtain bigger returns by more aggressive investment strategies.

In 1984 Elders Trustee decided to invest in a New South Wales piggery. It sought the advice of Mr Astley's law firm and Mr Astley handled the matter. It was established at the trial both that Elders Trustee failed to make any substantive inquiries about the commercial soundness of the venture and that Mr Astley did not advise Elders Trustee of the desirability of a clause with the trustee to exclude liability beyond the value of the trust assets, namely, the piggery and the land on which it stood. The plaintiff sued for breach of common law duty of care, namely, the defendant's liability in the law of

negligence, or tort law. The plaintiff also sued on the basis of implied contractual duty of care arising out of the contract of hire. And so it goes on.

I understand that some submissions were received in response to the invitation to comment on a model bill prepared by the Standing Committee of Attorneys-General, and I understand the Attorney has sent out draft bills to 15 selected people. So it has had a wide distribution to amend this difficult issue. The opposition will probably deal with this in more detail in another place, but I understand the Attorney would like to expedite the passage of this bill so we will confine our remarks to the brief comments that I have made and indicate that we support the passage of the bill.

The Hon. T.G. CAMERON: The High Court in the case of Astley v. Austrust interpreted section 27A of the Wrongs Act 1936 of South Australia, which provided for contributory negligence to reduce the fully determined amount of damages, to only apply to damages in tort. However, it had been established legal practice that it also applied to breaches of contractual duty of care. This bill will allow the courts to reduce the plaintiff's damages due to contributory negligence in cases of breaches of contractual duty of care.

Contribution provisions between tortfeasors will now be applicable for breach of contractual duty of care. It is history now, but the Supreme Court raised this problem in Duke Group v. Pilmer (No. 2). These provisions will be removed from the Wrongs Act and placed in their own act, as they apply equally to contract and tort law. The bill is not retrospective, which comes as no surprise, but it will apply in situations where the facts of the case occur before and after its enactment. SA First supports the second reading and will be supporting the bill.

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

DENTAL PRACTICE BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

PROTECTION OF MARINE WATERS (PREVENTION OF POLLUTION FROM SHIPS) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 June. Page 1701.)

The Hon. T.G. CAMERON: This bill is the implementation of the International Convention for the Prevention of Pollution from Ships (known as MARPOL), of which Australia is a signatory. The bill makes amendments to the regulatory powers of the act to enable the codification and regulation of the highly technical nature of the standards of the International Maritime Dangerous Goods Code. It also finetunes the effectiveness of the act.

Groundings and fires will be incidents that require reporting as per the amendment to MARPOL. Currently, the master and owner are liable for the spillage of oil or a noxious liquid if it is intentional or reckless. It is proposed that negligence will also give rise to liability, that is, spillage effected by damage to the ship caused by negligent behaviour.

South Australia has recently experienced two situations that fall into the above category that would have been prosecuted if oil had leaked and if this provision was enacted. Oil pollution from an apparatus rather than from a ship will be punishable to the same extent as pollution from a ship, that is, a maximum corporate fine of $1 million.

The bill provides indemnity from liability for Crown employees and agents directed to take action under the South Australian Marine Spill Contingency Action Plan. I note that there is an amendment standing in the name of the Hon. Sandra Kanck to cause copies of the plans as published from time to time to be laid before both houses of parliament. I indicate that SA First will support that amendment and the bill.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank the Hon. Carolyn Pickles, the Hon. Sandra Kanck and the Hon. Terry Cameron for their contributions and support for the bill. On 16 May the Hon. Carolyn Pickles, whilst supporting the bill, requested information during debate on the bill's second reading in relation to the following matter. She asked:

> The bill provides indemnity from liability for Crown employees and agents directed to take action under the South Australian Marine Spill Contingency Action Plan. Will the minister elaborate a little further on what the implications of that may be? I acknowledge that the spill at Port Stanvac is still being dealt with legally, but it is of interest to the opposition what that might mean in terms of liability for the Crown.

I advise that in the event of an oil spill it is essential that sufficient resources are available and deployed to contain the spill, to mitigate its effects and to clean up the oil. To ensure sufficient resources are available, Transport SA has developed an effective network with government, non-government and volunteer groups. This is reflected in the South Australian Marine Spill Contingency Action Plan.

However, whilst public servants carrying out their duties have personal immunity from civil liability, it is desirable to clarify the extent to which other persons assisting the government in the event of a spill may be liable for their acts and omissions. Essentially, these are the non-government or volunteer groups on whom we all rely heavily to implement the action plan and to clean up the spill.

The bill takes the position that, if a person is acting as an employee or agent of the Crown, then the liability should attach to the Crown and not to that person. It will be a question of fact to whether or not a person was taking action as an agent of the Crown. If a person were taking action as an agent of Mobil, or anyone else, then the proposed indemnity provision would not apply. The Crown will not attract any liability in relation to the Port Stanvac spill as a result of this amendment. The Hon. Carolyn Pickles asked a further question, as follows:

> There has been a spillage at Port Stanvac but can the minister advise whether there have been any other recent spillages and, if so, what has been the financial implications for the person who caused the spillage? Have there been prosecutions in recent times?

I advise that since the Port Stanvac spill in June 1999 there have been no spillages of any consequence, and thankfully nothing approaching the extent of the 1999 spill. However, one ship-sourced incident occurred in April 2000 and is currently under investigation. Whilst there are no estimates of the amount of oil lost in the sea off the coast, the clean-up cost to Transport SA was of the order of $40 000.

The offending ship was only identified following forensic testing of the spilt oil. As one can imagine, that process has taken some time and that is why the incident in April 2000 is still being investigated one year later. As the investigation

is still under way, I am unable to give the Council further details: suffice to say that the government will take action if possible against the vessel owners and master to penalise them for the offence and to recover clean-up costs.

The act provides a maximum penalty, to be determined by the courts and dependent on the circumstances, of $50 000 for a natural person or $250 000 for a corporate body for failure to report the spill; and a second penalty of $200 000 for a natural person or $1 million for a corporate body for the discharge of any oily substance.

Like the Hon. Terry Cameron, the government will support the amendment that has been circulated in the name of the Hon. Sandra Kanck. In relation to this amendment, I advise that clause 7 (which refers to section 28A(1)) requires the minister to develop and publish the plan. As it is intended to publish the plan and hence make it accessible to the public, I am quite relaxed about the proposed amendment that would see the minister table the action plan in both houses of parliament.

Further, I advise that since the bill was introduced I have received some advice from the Attorney-General expressing concern about whether we should be grading the penalty in terms of negligence. I am having ongoing discussions with the Attorney-General. If it is considered that these gradings should be included in the bill, I advise at this time that amendments would be introduced in the other place. My view is that the bill as it stands is appropriate in terms of not distinguishing the levels of negligence and, rather, leaving the court to determine the maximum fine, based on the substance of the case. The Attorney-General would wish that to be looked at again and I am happy to accommodate him. There may or may not be amendments arising from those further discussions.

Bill read a second time.

In committee.

Clauses 1 to 6 passed.

Clause 7.

The Hon. SANDRA KANCK: I move:

Page 4, after line 29—Insert:

(5) The minister must cause a copy of the plan, as published from time to time, to be laid before both houses of parliament as soon as is reasonably practicable after the plan is published.

The insertion of new section 28A requires that the minister must cause to be developed and published a plan to be known as the South Australian Marine Spill Contingency Action Plan. The minister is required to have this published. It makes sense to have the plan and any amendments that occur to it from time to time tabled in both houses of this parliament.

The Hon. CAROLYN PICKLES: The opposition indicates support for the amendment.

The Hon. DIANA LAIDLAW: As I indicated in summing up the second reading debate, the government also supports the amendment.

Amendment carried; clause as amended passed.

Remaining clauses (8 and 9) and title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (TAXATION MEASURES) BILL

Second Reading.

The Hon. R.I. LUCAS (Treasurer): 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 contains a number of revenue measures that form part of the government's budget strategy for 2001-02.

The government is committed to ensuring the state has a competitive tax regime for business and job creation. Pay-roll tax is one of the largest sources of state taxation revenue and through its impact on business cost structures has the potential to influence business location decisions. South Australia's pay-roll tax structure has become less competitive following significant rate reductions recently announced by the Victorian government.

The government has decided to reduce the rate of pay-roll tax from 6 per cent to 5.75 per cent effective from 1 July 2001. This measure is estimated to deliver pay-roll tax relief to business amounting to $24.5 million per annum.

The pay-roll tax rate will be further reduced from 5.75 per cent to 5.67 per cent from 1 July 2002 and, at the same time, the pay-roll tax threshold will be increased from $456 000 to $504 000. This second round of pay-roll tax relief will be funded by broadening the pay-roll tax base to include eligible termination payments (as defined for income tax purposes) and the grossed up value of fringe benefits under the *Fringe Benefits Tax Assessment Act 1986 (Cth)*. The changes to the measurement of fringe benefits will remove existing pay-roll tax incentives for remuneration to be taken in the form of fringe benefits.

Lease duty arrangements will also be changed, delivering particular benefits to small businesses which lease premises. From 1 January 2002, an exemption from lease duty for annual lease payments not exceeding $50 000 will be introduced in the *Stamp Duties Act 1923*. This measure will deliver relief across a broad range of business activity. An estimated 5 700 leases per annum will be relieved of lease duty.

The opportunity has also been taken in this bill to make some minor amendments to the *Stamp Duties Act 1923* to provide certainty to taxpayers that various acquisitions are not subject to *ad valorem* stamp duty under the land rich provisions or the land use entitlement provisions of the Act. This uncertainty has arisen as a result of the operation of *the Stamp Duties (Land Rich Entities and Redemption) Amendment Act 2000*.

In addition, given that as at 1 July 2001, stamp duty on quoted marketable securities is to be abolished, RevenueSA undertook a final review to ensure that the legislation in this area achieves its purpose.

From this review, it emerged that the amendments made by the *National Tax Reform (State Provisions) Act 2000*, may not technically remove the liability to duty on the "sale and purchase" of quoted marketable securities.

After further discussions with industry and with legal advisers, it was decided that it would be prudent for a minor amendment to be made, to put this issue beyond doubt and allay any industry concern that might arise.

Finally, provisions will be inserted into the *Land Tax Act 1936* to deliver land tax relief where the particular circumstances relating to people who are moving house or constructing a new home gives rise to a land tax liability on the principal place of residence.

Relief will be provided in the following circumstances:

- where at 30 June a person owns land on which a home is either to be constructed or is in the process of being constructed for owner occupation in the following financial year; in the absence of relief, a land tax liability would arise because at 30 June the land was not being used as the principal place of residence;
- where a person is in the process of selling a home and as a result owns two properties at 30 June, one of which is the current principal place of residence (and eligible for exemption) and the other is the intended but not yet occupied principal place of residence (and liable for land tax); land tax relief will be made available on both properties provided no rental income is received from either property during the period that the homes are owned concurrently;
- where a person purchases as the principal place of residence a property which was taxable in the ownership of the vendor and in accordance with standard contractual arrangements the land tax payable on the property is apportioned between the buyer and the seller; the proposed legislative amendments will enable the buyer to be refunded the lesser of the amount paid to the vendor in respect of land tax or an amount equal to the apportionment of the land tax payable on that land as a single holding.

The bill sets out the various criteria which must be met by taxpayers before land tax relief is available in these situations.

To ensure that only those taxpayers who are eligible for relief obtain the benefit, a refund of land tax will only be applicable once all the relevant criteria have been satisfied. For example, where a person is in the process of selling one home and buying another, the taxpayer must have moved into the new home and sold the original home before applying for a refund.

This relief measure will remove the burden of land tax from persons who incur a liability merely because of the timing of the sale and purchase of their homes.

I commend this bill to honourable 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 LAND TAX ACT 1936

Clause 4: Insertion of s. 5A—Waiver or refund of land tax for residential land in certain cases

This clause provides for applications for waivers or refunds of land tax paid or payable by the applicant or paid by the applicant to a vendor as an adjustment of land tax paid or payable by the vendor if the following are satisfied:

- the land became the applicant's principal place of residence during the course of the financial year; and
- proper grounds for exempting the land from land tax under section 5 came into existence when the land became the applicant's principal place of residence; and
- the applicant must have divested himself or herself, before the end of the financial year, of any other land in respect of which the applicant has had the benefit of a relevant concession for the financial year (*ie* subject to a residential exemption under section 5 or an earlier waiver or refund under this section); and
- unless the Commissioner allows otherwise in a particular case, no rent or other consideration has been paid or is payable for occupation, during the financial year, of the land or any other land in respect of which the applicant has had the benefit of a relevant concession for the financial year, while the applicant owned both the land and other such land; and
- the criteria for the time being determined by regulation.

The clause applies in relation to land tax for a financial year commencing on or after 1 July 2001.

PART 3

AMENDMENT OF PAY-ROLL TAX ACT 1971

Clause 5: Amendment of s. 3—Interpretation

These amendments expand the meaning of wages as from 1 July 2002 to incorporate eligible termination payments. They also alter the way in which fringe benefits are to be valued as from 1 July 2002 to incorporate the 'grossed up' value of those benefits.

Clause 6: Amendment of s. 9—Imposition of pay-roll tax on taxable wages

This amendment reduces the percentage of pay-roll tax to 5.75 per cent for 2001-2002 and to 5.67 per cent for future financial years.

Clause 7: Amendment of s. 11A—Deduction from taxable wages

Clause 8: Amendment of s. 13A—Meaning of prescribed amount

Clause 9: Amendment of s. 18K—Interpretation

These amendments increase the threshold amount for pay-roll tax to $504 000 for 2002/2003 onwards.

PART 4

AMENDMENT OF STAMP DUTIES ACT 1923

Clause 10: Amendment of s. 62—Land use entitlements

This amendment introduces exceptions to the dutiability of transactions providing land use entitlements. The exceptions are—

- the acquisition of a share in a company or an interest under a trust that confers a right to occupy a dwelling if the dwelling is part of a scheme consisting of two or more dwellings owned and administered by the company or the trustees of the trust;
- the acquisition of a share in a company or an interest under a trust that confers a right to occupy a dwelling if the dwelling is part of a retirement village scheme under the *Retirement Villages Act 1987*;
- a transaction exempted by the regulations.

The specific exceptions are similar to those that existed under Part 4 of the Act prior to the *Stamp Duties (Land Rich Entities and Redemption) Amendment Act 2000*.

Clause 11: Amendment of s. 67—Computation of duty where instruments are interrelated

This amendment makes a technical correction by removing subsection (8) which refers to a definition in section 71(15) which no longer exists.

Clause 12: Amendment of s. 90A—Interpretation

This is a technical amendment to put beyond doubt that the reference to 'conveyance' includes a sale or purchase of a quoted marketable security.

Clause 13: Amendment of s. 101—Exempt transactions

This amendment introduces an exemption from duty for an acquisition of an interest in a land rich entity that takes place under a compromise or arrangement approved by a court under Part 5.1 of the *Corporations Law*.

This exemption is similar to that contained in section 93(1)*(b)*(ii) of the Act prior to the *Stamp Duties (Land Rich Entities and Redemption) Amendment Act 2000*.

Clause 14: Amendment of Sched. 2

This amendment provides that lease transactions are to be exempt from stamp duty if the term of the lease commences on or after 1 January 2002 and the rent reserved, averaged over the term of the lease, does not exceed the rate of $50 000 per annum.

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

FIRST HOME OWNER GRANT (NEW HOMES) AMENDMENT BILL

Second Reading.

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

On 9 March 2001, the Prime Minister announced an additional $7 000 First Home Owner Grant ('the grant'), as a measure to provide short-term stimulus to the housing sector, an initiative that this government supports. This enhancement to the existing scheme means that a total grant of $14 000 will be available to eligible first home buyers purchasing or building a new home.

This is a targeted response to the current circumstances of the housing sector, and will build upon the positive confidence effects arising from recent reductions in official interest rates. In particular, it will bring about direct benefits for first home buyers, home builders and building suppliers, as well as flow-on benefits to a broader range of industries in South Australia.

The Prime Minister has requested that the States and Territories administer the additional grant, together with the existing grant which was introduced on 1 July 2000.

On 23 March 2001, following extensive consultation between Commonwealth, State and Territory Treasuries and Revenue Offices, the Federal Treasurer issued the settled eligibility criteria for the additional grant.

To be eligible for the additional $7 000 grant, applicants must first satisfy all of the eligibility requirements for the existing $7 000 grant. Under the existing grant requirements, an applicant must be a natural person, and if more than one applicant, at least one of the applicants must be an Australian citizen or permanent resident. At least one applicant must occupy the home as their principal place of residence within 12 months of settlement or construction. An applicant or an applicant's spouse or de facto partner must not have previously received a grant under this scheme anywhere in Australia and must not have owned, before 1 July 2000, any residential property in Australia, including an investment property. An applicant or an applicant's spouse or de facto partner must not have owned, on or after 1 July 2000, any residential property in Australia, and occupied that property.

Applicants are eligible for the additional $7 000 grant if they enter into a contract to buy or build a new home, between 9 March 2001 and 31 December 2001 inclusive. From 1 January 2002, the grant in respect of new homes will revert to $7 000.

The home must not have been previously occupied as a residence.

In respect of the construction of new homes, construction must commence within 16 weeks of entering into the contract, with the contract specifying a completion date within twelve months of the

date of commencement, or if a completion date is not specified in the contract, completion must occur within twelve months of the commencement date.

Owner builders will be eligible for the additional $7 000 grant if they commence building between 9 March 2001 and 31 December 2001 inclusive, and complete construction by 30 April 2003. Similarly, applicants who purchase new homes 'off-the-plan' will be eligible for the additional $7 000 grant if the contract to purchase is entered into between 9 March 2001 and 31 December 2001 inclusive, and the contract provides for completion of construction by 30 April 2003.

Home purchases and constructions which do not meet these time frames may nevertheless qualify for the existing $7 000 grant.

Since the introduction of the grant in July 2000, the South Australian Government has paid approximately $82.5 million in grant assistance to approximately 11 778 first home owners.

Although the Commonwealth separately funds the additional grant, it will effectively be an extension of the existing scheme. From the public's perspective, there will be a single grant scheme, with a grant of either $7 000 or $14 000, depending on whether the applicant satisfies the additional eligibility requirements. Applications, processing and payment of the grant will continue in the same manner as the current scheme, regardless of the amount of the grant. Applications for the additional grant are already being received and are being paid in anticipation of the amendments in this Bill.

The grant is in addition to the South Australian Government's First Home Concession Scheme, which provides a concession equal to the full amount of stamp duty otherwise payable where the property conveyed does not exceed $80 000. The amount of the concession is reduced when the value of the property exceeds $80 000, with the concession ceasing when the property value exceeds $130 000. The combined effect of the existing grant, the additional $7 000 grant, and the First Home Concession Scheme, is that new home buyers in South Australia could qualify for as much as $16 130 in State and Commonwealth grants and concessions.

In addition to these amendments, the Bill imposes an age restriction of 18 years and over on applicants for the grant, which is consistent with the *Age of Majority (Reduction) Act 1971* (SA). This will restrict specious applications in the names of persons under 18 years of age, and facilitates the administration of the grant in circumstances such as where there is a need to recover the grant if incorrectly claimed and paid. The Commissioner of State Taxation is, however, able to exempt an applicant from this requirement if satisfied that the home to which the application relates will be occupied by the applicant as their principal place of residence within 12 months after completion of the eligible transaction, and the application does not form part of a scheme to circumvent limitations or requirements affecting, eligibility or entitlement to the grant. This age requirement relates to both the existing and additional grant, and is to be effective from the date of introduction of this bill into parliament.

RevenueSA is administering the additional grant in South Australia.

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that the provisions of the amendment Bill except clause 4, will be taken to have come into operation on 9 March 2001 (thus it has some retrospective force). Clause 4 is specified to come into operation on the day on which it is introduced into Parliament.

Clause 3: Amendment of s. 3—Definitions

This clause inserts the definition of 'new home' in the Act. A new home means a home that has not been occupied or sold as a place of residence.

Clause 4: Insertion of s. 8A

8A. Applicant to be at least 18 years of age

This clause imposes as an additional criterion for eligibility for a first home owner grant a requirement that the applicant be at least 18 years of age (with provision for the Commissioner to grant an exemption from this requirement when satisfied as to the genuineness of the transaction). The Commissioner may grant an exemption from this requirement if satisfied that the home will be occupied as the applicant's principal place of residence within a certain time and the application does not form part of a scheme to circumvent eligibility or entitlement requirements.

Clause 5: Insertion of s. 13A

13A. Special eligible transaction

This clause states what a special eligible transaction is, namely:

- a contract to buy a new or substantially renovated home if the commencement date for the contract falls between 9 March 2001 and 31 December 2001; or
- a contract to build a new home if the commencement date for the contract falls between 9 March 2001 and 31 December 2001 and the building work starts within 16 weeks after the commencement date (or such longer period as the Commissioner may allow) and is completed, or the due date for completion is stated in the contract to be, within 12 months;
- the building of a new home by an owner builder if the building work starts between 9 March 2001 and 31 December 2001 and is completed before 1 May 2003.

Subclause (2) sets out what a substantially renovated home is, namely:

- the sale of the home is, under *A New Tax System (Goods and Services Tax Act 1999* (Cwth), a taxable supply as a sale of new residential premises within the meaning of section 40-75(1)(b) of that Act; and
- the home, as so renovated, has not been occupied or sold as a place of residence.

Subclause (3) specifies that only if certain time constraints are observed will a contract to purchase a new home on a proposed lot in an unregistered plan of subdivision of land (ie an 'off the plan' home) qualify as a special eligible transaction, namely, the contract must be completed before 1 May 2003 or, if no completion date is stated, the contract must be completed before that date.

Subclause (4) allows the Commissioner to deny certain contracts the status of special eligible transactions, namely, where the contract replaces a contract made before 9 March 2001 that was a contract to purchase the same home or a comprehensive home building contract to build the same or a substantially similar home.

Subclause (5) sets out when building work commences and is completed for the purpose of this new provision.

Clause 6: Amendment of s. 18—Amount of grant

This clause provides that the increased maximum amount of $14 000 is payable in respect of special eligible transactions.

Clause 7: Amendment of s. 25—Objections

This clause replaces subsection (3) of section 25 of the Act and provides for a time limit in respect of objections to decisions made in anticipation of a provision that operates retrospectively.

Clause 8: Amendment of s. 46—Regulations

This clause sets out that a regulation made for the purposes of a provision of the Act that has retrospective force may itself operate retrospectively provided it does not do so to the prejudice of any person.

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

ADJOURNMENT

At 4.50 p.m. the Council adjourned until Tuesday 3 July at 2.15 p.m.