LEGISLATIVE COUNCIL

Tuesday 20 August 2002

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. P. Holloway)—

Citrus Board of South Australia—Report, 2000-2001.
Review of the Collaborative Arrangements of the Capital City Committee Report.
Southern State Superannuation Scheme (Triple S)—Cost of Basic and Supplementary Insurance.
Regulations under the following Acts—
Hindmarsh Island Bridge Act 1999—Exemptions.
Lottery and Gaming Act 1936—Mobile Phone Entries.
Public Corporations Act 1993—Liabilities Management.
Stamp Duties Act 1923—Remake.
Australian Children's Performing Arts Company Charter.

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

Border Groundwaters Agreement Review Committee Report, 1999-2000.
Committee Appointed to Examine and Report on Abortions Notified in South Australia Report, 2001.
South Australian Victoria Border Groundwaters Agreement Review Committee Report, 2000-2001.
The Legal Practitioners Education and Admission Council (LPEAC) Report, 2001-2002.
A Review of Lake Frome and Strzelecki Regional Reserves Report, 1999-2001.
Regulations under the following Acts—
Building Work Contractors Act 1995—Exemptions.
Environment Protection Act 1993—Waste Depots.
Freedom of Information Act 1991—Dr. George Duncan.
Ground Water (Qualco-Sunlands) Control Act 2000—Costs.
Harbors and Navigation Act 1993—Speed Limits.
Juries Act 1927—Remuneration Scale.
Land and Business (Sale and Conveyancing) Act 1994—Forms, Inquiries.
Road Traffic Act 1961—Ancillary and Miscellaneous.
Subordinate Legislation Act 1978—Publication.
Rules of Court—Magistrates Court—
District Court—District Court Act—Master's Assessment of Damages.
Agreement between the Commissioner of Police and the Police Complaints Authority—Section 42(1) of the Police Act 1998 and Section 3(3) of the Police (Complaints and Disciplinary Proceedings) Act 1985.
Port Operating Agreement for Ardrossan between the Minister for Transport ('Minister') and Ausbulk Limited ('Port Operator').

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. J. GAZZOLA: I bring up the annual report 2001-02 of the committee.

TAFE GOVERNANCE

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement on the reform of TAFE governance, made in another place by the Minister for Employment, Training and Further Education earlier today.

LOCAL GOVERNMENT

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement by the Minister for Local Government relating to the draft Local Government (Access to Meetings and Documents) Amendment Bill 2002.

WHALE AND DOLPHIN PROTECTION

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement made by the Minister for Environment and Conservation on whale entanglements, earlier today.

QUESTION TIME

CONSTITUTIONAL CONVENTION

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to direct a question to you, Mr President, on the subject of the upcoming Constitutional Convention.

Leave granted.

The Hon. R.I. LUCAS: As members will be aware, the issue of the Constitutional Convention will potentially impact significantly on the operations of both houses of parliament, the House of Assembly and, with much interest to you and to all members of this chamber, I would hope, the Legislative Council. In recent days some publicity has been given to the establishment of a management committee to manage the process of the options that will go to the Constitutional Convention. I am mindful, as I am sure you are, that a number of suggestions have been made about potential changes to the operations of the parliament—some, at least, rational and some perhaps not quite so rational, is perhaps a description I might apply to them.

I noted a number of comments from the Speaker in another place in recent times, and a smile came to my face when he was quoted in the *Advertiser* as saying that the loony fringe would be prevented from hijacking the process in relation to the citizen initiated referendum part of the proposal. Referring to the Speaker the article went on to say:

'Just because somebody we know to be a couple of sandwiches short of a picnic thinks something is good, doesn't mean it is bad,' he told ABC radio.'You can filter out the ideas of the loony fringe.'

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: I suspect he might have been looking in the mirror—but, Mr President, you would not want me to reflect on the Speaker, indeed another member, and I would not seek to.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The issue of the proposals that do go to this Constitutional Convention will be of great importance to members of this chamber, as much as they will be to members of another chamber. I must say that a number of members have approached me to express some concern about the government's proposals in relation to how it will manage this process. I have been informed that the Speaker of the House of Assembly has been invited onto this particular committee; that the Attorney-General and shadow attorney-general, as is appropriate, have been invited to go onto the committee; and that the government has decided that two of its members and two members of the Liberal Party would go onto the committee. I am further advised that the

government party room has endorsed that the Hon. Gail Gago and Mr John Rau (the member for Enfield) would be the two government representatives.

The Hon. A.J. Redford: Ten seconds experience between the both of them.

The Hon. R.I. LUCAS: Well, no criticism of those two members, but they have not been in the parliament for an excessive length of time. Mr President, the government has not nominated you as a member of this planning group. A number of members have expressed grave concern to me that the Presiding Officer of one house of parliament has been put onto the committee, but the Presiding Officer of the Legislative Council has not been put onto that planning committee. While I am not permitted in an explanation to express an opinion, others have expressed grave concern to me that that is the case. This council, and indeed you, Mr President—I do not speak on behalf of you personally but, rather, on behalf of you representing this chamber—have been deliberately excluded from this process. While those views have been put to me, I certainly agree with them. So my two questions to you, Mr President, are:

1. Do you believe that the President of the Legislative Council—whomever he or she might be; in this case it is obviously you—ought to be a part of this planning process committee if, in particular, the Presiding Officer, the Speaker, of the House of Assembly has been placed on the committee?

2. If you do, what actions on behalf of the Legislative Council could you take to put in the strongest possible terms to the Premier your opposition, I would hope, and the opposition certainly of a number of members of this chamber, at the slight to the Legislative Council by not including you on this planning committee?

The PRESIDENT: I thank the honourable member for his question. It was of some concern to me, I must confess. When the conference which was held last weekend was convened I did find this unusual. As the Presiding Officer of one of the houses of parliament, with a beholden responsibility to this chamber, when contributions were being sought in the discussion about constitutional change, it was, in my view, a reasonable expectation that a contribution by myself on behalf of this chamber would have been worthy of some discussion. However, those who convened that conference felt that that was not necessary. I must say that was somewhat of a surprise. With respect to the other parts of your question about the constitutional process that we are about to embark upon, I have made my view very clear. My personal view is that I am quite prepared to look at the history of both houses of parliament in this state over the past 150-odd years to see whether in fact what we have been doing is the best way to do it and, indeed, whether it may be pertinent to look at changing the process.

However, I have not been a supporter of change for the sake of change. I am a supporter of a review of the constitutional requirements of the parliament of this state, and I have always been prepared to make a contribution. On the opening day of this parliament, I said that it was my duty to protect the practices, procedures and protocols of this parliament and, at all times, endeavour to maintain the dignity of the council. Being the elected President of this Legislative Council is not only an honour but a responsibility. I do find it a little bemusing that the Presiding Officer of this council has not been invited to participate in the constitutional processes.

I have always been prepared to stand, but I have not been prepared to push myself forward. However, in respect of what can be done about that, many of these processes are in the hands of the members of both houses of parliament. I can, indeed, raise the matter with the Premier on behalf of the council if it is the wish of the council. At the present moment, the constitutional conference arrangements are being made in splendid isolation from the official structures of the Legislative Council which, personally, I find disconcerting.

The Hon. R.I. LUCAS: As a supplementary question, Mr President, I thank you for your comments but, as you indicated in your reply, would it assist the process—if it was the wish of the parliament—if there was a motion of this parliament to support the view that the President of the Legislative Council be a member of the planning committee process? Should this chamber support that motion, would that assist you in your discussions with the Premier?

The PRESIDENT: I will take the supplementary question on notice. I understand the good faith in which the question is being delivered. Let me reiterate: at this stage, I have not been promoting myself as a member of the constitutional conference or its procedures. As always, the President of the Legislative Council is, in my view, directed by the decisions of the council. Processes are in place for the council to register its view and desires and, in fact, its instructions. The procedures are well laid out within the standing orders. If the chamber decides to use the standing orders, the instructions given by the chamber are the instructions by which I will abide.

The Hon. T.G. CAMERON: I have a further supplementary question. Mr President, you indicated that you would take up these matters with the Premier (Hon. Mike Rann). Mr President, will you report back to the chamber on those discussions and their outcome?

The PRESIDENT: Generally, it is my view that if I am speaking with the Premier about matters that are of a personal nature, or a matter in respect of the deliberations of the party that elected me to this place, and if those discussions are done in a confidential way, it certainly would not be my desire to report to anyone. As I said in answer to a supplementary question asked by the Hon. Mr Lucas, if I am given instructions by the council it is my beholden duty to obey those instructions.

The Hon. T.G. CAMERON: I have a further supplementary question. Mr President will you bring back to the council the results of your discussions with the Premier?

The PRESIDENT: I have been given no instructions by this council. I have been asked a question. I have indicated that I am prepared to discuss with the Premier the constitution and any part that I may play in the processes of the Constitutional Convention as a representative of this chamber. In the absence of any instructions from this chamber, they will be discussions on a matter of interest which has been raised during the deliberations of this chamber.

REGIONAL AFFAIRS

The Hon. CAROLINE SCHAEFER: I seek leave to make an explanation before asking the Minister for Regional Affairs a question about his portfolio responsibilities.

Leave granted.

The Hon. CAROLINE SCHAEFER: As shadow minister for regional affairs, I am somewhat perplexed as to what, if anything, the minister's portfolio has to manage. I would like to refer to some of his answers and statements in the past few months and particularly during estimates. On 30 July, during Estimates Committee B, the Treasurer said:

We have a Minister for Regional Affairs who will not act solely in the role of minister for regional development, which has been the model of the past. We want our Minister for Regional Affairs to have a broader approach to representing regions within cabinet and within government across portfolios.

I would like to stress that: 'across portfolios'. As part of his opening statement during estimates the Minister for Regional Affairs said:

All regional communities can be assured that they will have a voice in cabinet who will champion their needs and a Premier and Treasurer willing to listen.

In response to the first question asked he further said:

The input is a budget line, responsibility for which is assumed by another minister. It was not my responsibility to draft the budget programming for that particular portfolio area . . . one must explain to constituents how the decision will impact on regional areas, and that is what I have tried to do.

By way of an answer to a question about Kendell Airlines from the Hon. Diana Laidlaw on 14 May, he said:

It is not an area covered by my portfolio, so I will refer these questions to minister Wright.

On 3 June , with regard to a question from the Hon. David Ridgway, about SA Water, he replied:

I will take those important questions to the minster in another place.

On 6 June, in response to a question from the Hon. Ian Gilfillan on youth facilities in Port Lincoln, he said:

I will refer that question to the minister in another place.

During estimates, a question was asked about crown lease perpetual, and the response was:

The input is a budget line, responsibility for which is assumed by another minister. I will take that question on notice.

A question was asked of the Minister for Regional Affairs about Enterprise Zones, and his answer is as follows:

It is not a budget line for which I have responsibility, although, as I said, sometimes the impact of budget lines in other ministers' portfolio areas must be explained by me. As I take some responsibility for the impact of budget processing and as I have broad contact with people on regional areas . . .

In reply to a question on the HomeStart scheme in regional areas the minister said, in part:

. . . but it is not a direct funding line for which I have responsibility in relation to the budget. I do take the honourable member's point . . .

Responding to a question on regional road programs, the minister said:

I may seem to be ducking responsibility for regional development and budgeting—

and, as an aside, he was being seen to be doing so—

but the matter falls within the province of the Minister for Transport.

In answer to a question on the closure of three regional ambulance communications offices, the minister replied:

I understand the importance of the question but it is outside my portfolio budget lines.

On a question on arterial road funding, he responded:

Unfortunately, again, it is not within the province of my portfolio area.

On a question on the Murray River fishery, the minister said:

The portfolio area that covers the Murray River fishers is Primary Industries. I did play a role in opposition in a joint committee.

On a question relating to policy responsibility for local crime prevention committees, he said that the responsibility for policy was in another portfolio area. In reply to a subsequent supplementary question, he said:

I will have to take that on notice, given that it is not my portfolio area.

On a question in relation to regional impact statements, he said:

I have no impact on the way in which decisions are made within other portfolio areas until they are discussed in cabinet.

On a further question relating to education in regional schools, he said:

I can raise the questions you have asked with the Minister for Education in another place and bring back a reply.

And so the list goes on and on. In his final reply to a question, the minister said:

I certainly take this portfolio very seriously, as I do my other portfolio responsibilities.

My questions are:

1. Can the minister explain what are the responsibilities that he is taking seriously?

2. Does the minister have any authority over his own departmental budget, planning or policy development, or is he merely the scapegoat of his party sent to explain the government's decisions to the already angry residents in regional South Australia?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I would like to know which government has given the Minister for Regional Affairs responsibility for funding programs and regimes listed by the honourable member.

Members interjecting:

The Hon. T.G. ROBERTS: Perhaps I will get members opposite to lobby to get me the budget power required to go with the shopping basket they have given me. The implication of the honourable member's question is that every issue in every portfolio area outside the metropolitan area is the responsibility of the Minister for Regional Affairs. That would sound very good to someone framing a budget and budget bilateral, and it would certainly increase my importance in and around the cabinet table. If members opposite want to lobby members of the inner cabinet about that process, I would certainly be grateful.

I understand the frustrations of members when they ask questions in relation to the budget process. However, the budget process only allows ministers to frame their own budget and to answer questions relating to their budget expenditure for the following year and to predict the associated implications. Although I do impact, in terms of policy development, on a whole range of areas within budget development at cabinet level and party level, I do not have the final say for the budget process. Certainly, there are discussions in relation to the range of very important issues to which the honourable member has referred.

The impact of regional airlines is still an important regional issue, but it goes to the transport portfolio. Again, SA Water is another important regional issue. Although I do have some function in pricing mechanisms within regional areas that I sign off on, I am not sure at what level they are formulated, but I suspect that there would be a lot of discussions across portfolio areas about decisions made by the previous government. Again, youth facilities falls within the responsibility of the minister with control over ministerial functions associated with young people. Further, crown leases come within the primary industries portfolio. I will not refer to the budget process in relation to other ministerial responsibilities. But I will say this: in relation to my own portfolio areas, I was asked whether I would prefer to have in the area

of Aboriginal Affairs, Aboriginal housing, health, education, and so on.

It was my view that, the more people sitting around the cabinet table who had an understanding of those issues, the better it would be for me in terms of describing what was happening; the more of my colleagues who had an interest in those areas, the better it would be for Aboriginal people. Similarly, with respect to the ministers who are sitting around the cabinet table, it appears to me that the same process and the same formula would apply in relation to their own portfolio areas. The more ministers who have an understanding of the implications of their policy development on regional areas, the more they have to take note of what is happening in the regions. I still stand by that formula for internal education in relation to how regions run.

With respect to the issues associated with budgeting for a single portfolio such as mine, I run a very modest ship; I have a very modest portfolio. But I would hope that I have a more than modest impact on budget deliberations and the formulation of policy. I see my job, role and function as trying to harness the goodwill that exists in regional areas to formulate policy so that more of my cabinet colleagues are aware of what goes into not just the economic development of regions but also the social development of regions and the health of communities.

I do not apologise for not answering questions in relation to the budget process on behalf of my colleagues. But I do understand the frustration of being in opposition, and I understand the frustration of members opposite, who believe that they have a monopoly on regional electorates and that we are making inroads into their constituencies. Because of the policies that we have developed in relation to the rural cabinet meetings, and the way in which we have built up our support through local government and the regional development boards and through a whole range of policy development, I also would be nervous sitting on the other side of the council, as the government starts to make inroads not only into policy development but also into their electorates.

An honourable member interjecting:

The Hon. T.G. ROBERTS: I am not saying that Flinders will be one immediately, but I think that regional people now are looking for explanations as well as actions, and we hope to be able to supply that with the formation of the new Office of Regional Affairs and, together with the impact that I can have on the economic development boards within the state, hopefully, we can achieve economic and social development within those regions.

The Hon. J.S.L. DAWKINS: Sir, I have a supplementary question. As the Office of Regional Affairs comes within the Office of Economic Development, is it ultimately responsible to the Minister for Regional Affairs or to the Minister for Industry, Investment and Trade?

The Hon. T.G. ROBERTS: Ultimately, the responsibility is mine. The formation of the policy changes to the structure of the departments has meant that my office now has direct access to the Treasurer's budget lines and can assist the Treasurer to formulate policies directly. With the economic development assessments that are made in relation to project management within regions, hopefully, we will have the ability to have one stop shops, if you like, to process any activities or projects and I will be able to open some doors much sooner than was the case with many of the project management programs under the previous government.

The Hon. CAROLINE SCHAEFER: As a further supplementary question, what legislation does the minister anticipate handling in this council?

The Hon. A.J. Redford: On your own behalf.

The Hon. CAROLINE SCHAEFER: On your own behalf, yes.

The Hon. T.G. ROBERTS: Anything that my cabinet colleagues believe, on behalf of the Labor Party, needs to be altered, changed or amended in the interests of regional people.

OPERATION CHALLENGE

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about Operation Challenge.

Leave granted.

The Hon. D.W. RIDGWAY: Like a number of South Australians, I was very disappointed to see that the Operation Challenge program had been axed as a result of the state budget on 11 July this year. A misinformed person might very well have thought that the program was expensive and ineffective and, therefore, needed to be axed. I am not sure this was the case and would like to quote briefly from a couple of documents, the first being a paper presented at a conference on reducing criminality, convened by the Australian Institute of Criminology in association with the Western Australian Ministry of Justice. I will not read it all—just points 11 and 12 and the summary. Point 11, on the cost, states:

> The operating budget for the program is approximately $55 000 per annum with the majority of the costs being spent on education. These funds have been made available from Treasury specifically for the program. The program has three full-time officers and one coordinator at a cost of approximately $150 000.

Point 12 headed 'Evaluation' states:

> The University of SA is currently evaluating the program. Pending the results of the evaluation, it is proposed that the Operation Challenge program will double in size.

The summary states:

> We consider that this program represents best practice in prison management of young offenders and can be used as the benchmark for future strategic planning of prisoner development and management programs.
>
> This evidence is visible in the shift in mental and physical wellbeing of the prisoners partaking in Operation Challenge. Prisoners state that it has been a long time, or for some, the very first time that they have had a positive outlook on life, are drug free and have a future to look forward to.

In the study from the University of South Australia, the conclusion states, in part:

> . . . Operation Challenge possesses many of the characteristics associated with effective correctional programming, with comparatively few areas of deficiency.
>
> The results of pre-test/post-test study of the psychological outcomes of participants. . . invite the conclusion that the participation in Operation Challenge was acting as a catalyst for change on several dynamic characteristics regarded as predictive of offending behaviour. Previous research has revealed that such change tends to be associated with reduced recidivism.
>
> The program's demonstrated success in achieving a range of targeted outcomes suggests that the limitations of the program are outweighed by its strengths. The tasks for the future would appear to be to further enhance the effectiveness of this program by refining its design, content and delivery.

My questions are:

1. What process of assessment evaluation did the government use prior to axing this program?

2. Will the minister please outline the cost savings of axing this program?

3. What will be the benefit to his portfolio and the community as a result of axing this program?

The Hon. T.G. ROBERTS (Minister for Correctional Services): This is not the first time the question has been asked in relation to cuts to the recent budget. The overall cost saved was $60 000. They were the figures that were given to me. With regard to the assessment that the honourable member makes in relation to the worthiness of the project, I would agree that the project itself was gaining acceptance and respect within the Correctional Services system as a method of engaging young people to enter the community. There was soul searching in relation to those programs we had to cut. Unfortunately, due to the budget pressures we had from taking over the budget process from the previous government, all ministerial programs had to be assessed for offering up cuts to make sure that the budgetary program for this financial year put us in better stead for growth within the state for the next four years.

The strategy was that the debt levels had to be reduced and, like all portfolio areas, savings had to be made within corrections. I must say that Correctional Services did not have a lot to offer. We did not have a lot of expensive programs running. We have a lot of investment in bricks and mortar but, in relation to human service programming, we had little fat within our system to be offered up for those cuts. I would have preferred to come into government with either a balanced budget or a surplus, and it gives me no pleasure to make those announcements to people who work in those programs. In a lot of cases, if you put the figures together with the outcomes you would find that a lot of voluntary time has been put into those programs to get the results.

So I will make, and have made, a commitment to look at options for Operation Challenge. Those options are being considered at the moment, but I am not in a position to be able to describe them nor put anything to the honourable member in relation to outcomes at the moment, but we are certainly working towards that and trying not only to extend state resources but also looking at using commonwealth money.

The Hon. D.W. RIDGWAY: I have a supplementary question. What will be the benefit to the minister's portfolio and the community as a result of axing the program?

The Hon. T.G. ROBERTS: There will be no benefits to me. The only benefit will be the aggregated savings. The loss to the community would be the loss to young people who had availed themselves of the program and received benefits because, unfortunately, it would no longer exist in its present state.

SAND MINING

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about mineral sand mining at Mindarie.

Leave granted.

The Hon. R.K. SNEATH: In this state in recent years there has been considerable interest in the commercial extraction of resources which have previously been either uneconomical or unmarketable. One such resource is the mineral sands that exist at Mindarie which will be used in advanced component and materials manufacture. My question is: will the minister outline the progress that Southern Titanium NL is making towards commercial heavy mineral sand mining at the Mindarie deposit?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his question. Southern Titanium is progressing well towards commercial production of heavy minerals from its Mindarie deposit, which is located in the Murray Mallee 150 kilometres east of Adelaide. The project has reached the final design, finance and marketing stage. Southern Titanium, I am advised, is in the process of applying for a series of mineral leases at Mindarie to provide for the first three years of production. Beyond this, I am advised that additional leases will be sought as required.

Southern Titanium has upgraded its mineable reserve at Mindarie to 44.71 million tonnes grading at 4.15 per cent of heavy minerals, and the total resource figures now stand at 290.1 million tonnes grading at 2.41 per cent which, of course, indicates that there are 7 million tonnes of heavy minerals contained within that deposit. Mine production will involve the treating of 5 million tonnes per annum of ore to produce more than 150 000 tonnes of high value product.

I am pleased to say that Southern Titanium recently announced that it has found a more extensive and possibly richer mineral sands deposit, called Derrick, located 15 kilometres south-east of Loxton near the South Australian-Victorian border. The company has accelerated exploration of this deposit and has expanded the scope of its definitive feasibility study to incorporate this new discovery. Southern Titanium has signed a memorandum of understanding with an Austrian corporation, DCM DECOmetal International, for the sale of 100 per cent of the project's production.

Southern Titanium estimates that revenue from the project will be around $63 million per annum, which would yield state royalties in excess of $1.5 million annually. Project cost estimates have determined a capital cost of $65.2 million and an annual operating cost of $28.7 million. The project will provide employment for 68 full-time employees and 35 contractors, with another 120 contractors utilised in the construction and commissioning stages. Provided that Southern Titanium meets all government requirements, it is expected that the project will reach commercial production in 2003.

FIREARMS THEFT

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the minister representing the Attorney-General a question about firearms theft.

Leave granted.

The Hon. IAN GILFILLAN: The Minister for Police should probably be involved in this matter. I refer to a recent Trends and Issues paper from the Australian Institute of Criminology entitled 'Firearms theft in Australia.' The paper, as the title suggests, examines the issue of firearms theft in Australia but also, for the first time since 1996, presents data on firearms ownership. In South Australia as at 1 July 2001 there were 77 513 individual firearms licences, with a total of 249 327 registered firearms in the state. This equates to an average of 3.22 firearms per licence holder and 6.7 per cent of the adult population in South Australia hold a firearms licence. This is higher than the national average of 5.2 per cent.

The number of registered firearms in South Australia comprises 11.5 per cent of the total firearms in Australia. Despite having only 11.5 per cent of the country's registered firearms in the 1994 to 2000 period, 20 per cent of the

firearms stolen in Australia were stolen in South Australia. This compares to New South Wales which accounts for 24 per cent of the country's firearms but only 25 per cent of the thefts. We as a state are second only to New South Wales in the number of firearms stolen in this country, although South Australian figures include one instance in which 600 hand guns were stolen from one dealer in Peterborough in 2000. Even including this, SA still accounted for over 18 per cent of Australia's firearms thefts over the six-year period.

Under the National Firearms Agreement, licence category A and B firearms must be stored in a locked receptacle made of either hardwood or steel. Category C, D and H firearms must be stored in a steel safe secured to the structure of the building. The 2000 review of the New South Wales Firearms Act 1996 suggested that there was a need for an enforcement program in regard to the safe storage requirements of firearms. This could be achieved through random inspections and would, in addition to providing for enforcement, give us as legislators data on rates of compliance and reasons for non-compliance. My questions to the Attorney and the Minister for Police are:

1. Do they agree that the high level of firearms thefts in South Australia is unacceptable?

2. Does the minister have information on the level of compliance with requirements for the security and storage of firearms? If not, why not?

3. What is the minister doing to improve enforcement of these requirements?

4. What else will the minister do to ensure that the levels of firearms theft in South Australia are reduced?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I think that those questions would relate to the Minister for Police, since at least three of the four relate to firearms and enforcement. I will refer them to the Minister for Police and, if there is also some comment needed from the Minister for Justice, I will ensure that we obtain an answer for the honourable member.

SPEED CAMERAS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the minister representing the Minister for Transport questions regarding speed camera demerit points.

Leave granted.

The Hon. T.G. CAMERON: In a ministerial statement to the House of Assembly on 17 July 2002, the Minister for Transport said that the government would introduce legislation to provide for demerit points to be incurred for camera-detected speed offences and prepare regulations to require that prescribed red light camera offences attract demerit points. The previous Liberal government also considered a similar action back in 1998. At that time, I wrote to the minister asking her whether the government had undertaken any studies on the social impact and cost of the proposed changes. In her written reply dated 19 August 1998, the minister stated:

> No estimates have been made of the potential number of drivers that may offend and may be caught—and the points they may lose—if and when the points demerit system was extended in South Australia to include offences detected by radar-operated cameras.

I asked the same questions on notice of the new minister and have been told that detailed studies have not been completed—we do not know what these detailed studies are—and are not called for. So, the detailed studies have not been completed and nor are they called for. Considering that thousands of people may lose their licences, and possibly their jobs, as a result of these new proposals, I find the minister's response to be astounding. My questions to the minister are:

1. Why will the government not undertake a study on the social impact and cost of the proposed changes for loss of demerit points due to speeding before legislation is introduced into parliament?

2. What is the estimate of the number of points in total per year that may be lost; what is the estimate of the number of people who may lose their licences per year; and what is the estimate of the number of jobs that could be lost per year as a result of people losing their licences due to this new legislation?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those questions back to the Minister for Transport and seek a reply.

ADELAIDE CITY FORCE

The Hon. J.F. STEFANI: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Recreation, Sport and Racing, a question about the use of Hindmarsh Soccer Stadium.

Leave granted.

The Hon. J.F. STEFANI: The South Australian government entered into an arrangement with the Adelaide City Force Soccer Club to play its national league home matches at Hindmarsh stadium for a period of two years. That ended on 30 June 2002. On 17 June 2002, the President of the Adelaide City Soccer Club held discussions with the venue manager in relation to some new arrangements for the 2002-03 national soccer competition. On 17 July 2002, Adelaide City Force received correspondence from the Office for Recreation and Sport requesting the club to confirm the proposals discussed at the meeting held in June.

For its part, the club forwarded a written response on 23 July 2002 outlining its requirements for the forthcoming season. I am also aware that on 12 August 2002 the club wrote to the Minister for Recreation, Sport and Racing seeking an urgent meeting with him and the Premier to finalise certain important longstanding matters, including the arrangements for use of the Hindmarsh stadium for the 2002-03 season, which is due to commence in late September 2002. The club is urgently wanting to finalise its competition program and, therefore, is anxious to receive a timely reply from the government in relation to the various issues.

Members would be well aware that Adelaide City Force is the only South Australian team in the NSL competition and attracts support from a broad section of the community, including, I understand, the Premier, who is a strong self-proclaimed soccer supporter. Unfortunately, to date, despite numerous letters, the club has not received a response from the minister or the government. My questions are:

1. Will the minister advise when he intends to meet with the club's representatives to finalise the various issues?

2. Will the minister ensure that the club receives an immediate response to the proposal submitted to the Office for Recreation and Sport on 23 July 2002?

3. Will the minister give an undertaking that the South Australian Labor government will do everything possible to assist the ongoing participation of Adelaide City Force in the national competition?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to my colleague in another place and bring back a reply.

VISITORS TO PARLIAMENT

The PRESIDENT: I draw the attention of members to the presence in the council of some very important young South Australians from the Redeemer Lutheran School, Nuriootpa. They are accompanied today by the Hon. Mr Dawkins. The council hopes that you find your visit to our parliament today as part of your educational studies both educational and interesting.

CROWD CONTROLLERS

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs, representing the Attorney-General, a question about the Security and Investigation Agents Act 1995.

Leave granted.

The Hon. A.J. REDFORD: In recent weeks my office has been contacted by several constituents who have reported several disturbing incidents involving crowd controllers—or bouncers as they are more commonly known—outside several Adelaide city nightclubs. In addition, they have advised that the overzealous bouncers in Adelaide are gaining a reputation interstate as being rough, unreasonable and, on some occasions, violent without good reason. The Security and Investigation Agents Act 1995 sets out strict conditions under which our security agents are regulated. However, current concerns relate to how these licensed security agents are supervised once they are working at public venues.

From what my constituents have told me, it appears that, in some instances, they are acting as a law unto themselves. Reports of bouncers discriminating against patrons and not allowing them to enter venues, acting unreasonably and manhandling patrons who are not inebriated or who are causing only minor disturbance and, in some cases, using violence for no apparent reason are common. Not only is this over-policing of our venues possibly putting people off attending them, it is also giving South Australia an unenviable reputation interstate. One particular incident related to me by a constituent involved a young man and a security agent outside a popular city nightclub only last week.

According to my constituent, there was no provocation or even an incident leading up to the assault. The young man in question was stopped by security agents outside a venue, even though he was not intending to enter the premises. He was asked a series of brief questions about what he was doing and after answering the questions (and he had no obligation to do so, I might add) he was knocked to the ground by the bouncer. That young man is now in a critical condition in hospital with a fractured skull and two blood clots in the brain. I am informed that, out of fear of further repercussions, he and his family have decided not to report the matter or to take it any further, even though he would be entitled to sue for compensation for what appears to be an ongoing medical and possibly psychological condition. This indicates to me that the situation is reaching crisis point and it needs to be investigated fully.

The Hon. T.G. Cameron: You should name the nightclub.

The Hon. A.J. REDFORD: I will not do that. I am happy to give the name to the Attorney, but I want to be careful about parliamentary privilege. In light of the above, my questions to the Attorney are:

1. Will he advise what measures are taken to ensure that security agents carry out their duties according to the Security and Investigations Act 1995 and the regulations?

2. Will he provide records showing how many security agents have been reported for assault in the course of their employment in South Australia and in the last 12 months?

3. Is any evidence available from other states in relation to prosecutions so that we can compare their performance with our own and, if not, will the Attorney-General order a survey to be conducted to ascertain this information?

4. What is the government proposing to do about this intolerable situation with a view to preventing this sort of conduct in the future?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to my colleague in another place and bring back a reply. It seems to be a periodic problem.

VISITORS TO PARLIAMENT

The PRESIDENT: I draw the attention of members to the presence of some very important young South Australians, from Annesley College, in the public gallery. They are in the company of their teacher, Mrs Rundle. They are here today sponsored by the member for Unley, Mr Mark Brindal. We hope that you find your visit to our parliament both educational and rewarding.

SERVICE SA RURAL AGENT PROGRAM

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Regional Affairs, representing the Minister for Administrative Services, a question about the Service SA Rural Agent Program.

Leave granted.

The Hon. J. GAZZOLA: Recently, the Minister for Administrative Services launched the Service SA Rural Agent Program in the South-East town of Port MacDonnell. Can the minister outline the benefits of this new initiative and inform us of other communities that will benefit from the program?

The Hon. T.G. ROBERTS (Minister for Regional Affairs): It is an area quite close to my home town of Millicent. Service SA provides a new gateway to government including a web site and customer service centres at Port Lincoln, Whyalla and Gawler—

The Hon. Diana Laidlaw: A former government initiative—which you are endorsing.

The Hon. T.G. ROBERTS: I have made lots of endorsements while I have been on my feet in this council in relation to the Hon. John Dawkins and the work that he has done in regional areas, and some of the policy developments that were put in place by the previous government. I am not backward in coming forward in acknowledging those initiatives. Service SA also provides a customer contact centre which can be reached for the cost of a local call. The new Service SA Rural Agent Program expands this network even further by utilising existing government outlets in rural communities as rural agents. Apart from Port MacDonnell, the other Service SA rural agent outlets at this stage are at Port Broughton, Wudinna, Kimba, Yorketown, Keith, Streaky Bay, Jamestown and Cleve. These rural agents will provide

both face-to-face and online delivery of state government information and services on behalf of Service SA.

Members of the public will have access to 1 500 services via the Service SA web site. Various application forms will be available as well. It is even possible to undertake driver theory tests through the rural agents, and this exciting initiative is a good example of agencies working together in a more coordinated way, something that many country communities believe is crucial. The Rann Labor government is committed to making the state government more accessible to people in smaller regional centres. The Service SA Rural Agents Program goes a long way to fulfilling this important commitment, and we will continue with the good work that was started by the previous government.

In relation to other servicing, it will be interesting for members on the other side, particularly those who spoke to the dedication motion in relation to Kasey Chambers, to hear that on a recent visit to Streaky Bay and Wudinna I noticed that Kasey Chambers had notices up all around Eyre Peninsula and, I understand, through other Outback areas because she is on a tour paying tribute to those people who have supported her over a long period of time. She was doing her bit for rural South Australians just as this service does—providing services and filling gaps—for rural South Australians who could not access the services before.

FREEDOM OF INFORMATION

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Leader of the Government in the Council a question in relation to freedom of information.

Leave granted.

The Hon. M.J. ELLIOTT: My question relates to how freedom of information applications will be treated by the new Labor administration. I will refer to an experience that I had with the previous administration. Certainly, many individuals in the community, including the media, experienced ongoing frustration by Liberal government attempts to withhold public documents. Most recently I received a response to my letter of 24 April 2001 seeking information on the number of permits issued to cull native birds. The purpose of this FOI was to ascertain how many birds were culled in 1998 prior to the permit system being revoked by the Liberal government. It was estimated by the Department of Environment and Heritage that during 1999-2000, when permits were not required, over 45 000 birds were killed in South Australia. When I made this request, at first the request was deemed to be too hard, and a joint meeting was held on 28 May 2001 where there was an agreement to refine the request.

However, the department still did not respond to the application within the 45 day period. Effectively, that meant that the request was refused, but I was not informed, at any stage, of a refusal. In fact, it was more than 12 months later, on 26 July this year, that the department wrote informing me that the request was refused, effectively because of the elapse of time. However, the department provided a summary document which I had requested. Obviously, the document existed, but the previous government chose not to supply it. It provided the document outside the provisions of the act, perhaps confirming that, at this stage, the Labor Party will treat FOI seriously.

So that it goes on the record, I put the question in relation to the number of musk lorikeets, rainbow lorikeets and rosellas that had been culled. The FOI revealed that during 1988 some 3 575 Adelaide rosellas, 3 420 rainbow lorikeets and 2 160 musk lorikeets were culled. I did not obtain data on other species, so I do not know whether the 45 000 figure is correct. Will the minister advise whether the government will make a commitment that there will be no refusals based on elapsure of time, as happened frequently under the previous government?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): In relation to the Freedom of Information Act, amendments were made to the act by this parliament last year on the last day of sitting, I think, or certainly in the last week of sitting, and those measures, I think, came into force on 1 July this year making that act more open. In addition, my colleague the Minister for Administrative Services in another place has today (I think) gained caucus approval for further amendments to the Freedom of Information Act that will be introduced, at least for discussion, into the parliament over the next couple of weeks.

In relation to the point made by the honourable member, there has been a number of increases in requests for FOI information. It is sometimes difficult—particularly if the information is not particularly explicit or, alternatively, if the information is not held in an easily accessible database—and it will take some time to find the information. I can certainly understand that, in some cases where freedom of information requests are made, it may be particularly difficult to gather all the information, and I have some sympathy for those people who have that task. Nevertheless, this government, as a consequence of its charter and the promises it made during the election campaign, is determined to make government more open and accountable.

I think the amendments my colleague in another place is moving to the act will go a significant way towards addressing that issue. Obviously, it is also a question of the available resources to process the information. If delays occur, one would hope that the volume of work involved in processing the request rather than any intention to stall is the reason. Certainly, it is this government's intention that much more information held within the public sector be more accessible to more people. That is the underlying principle on which the government will be operating.

NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) (REFERENDUM) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 August. Page 665.)

The Hon. A.J. REDFORD: Yesterday, I advised the council that the opposition opposed this bill on the basis that it is no more, and no less, than a political stunt. As I explained, the bill is now known as the 'Get Trish Draper' bill. I pointed out that the opposition opposed the second reading for a number of reasons, including:

(a) That it is merely a political stunt.
(b) The trigger for the referendum is left entirely in the hands of the minister.
(c) The precise terms of the trigger are unclear.
(d) The cost (estimated to be up to $10 million) is entirely unjustified.

(e) The result of any referendum is entirely predictable and is not binding.

(f) The bill trivialises an important and difficult issue and deflects public debate from real, substantial and difficult issues.

(g) The extension of the definition of 'nuclear waste' has unintended consequences, particularly concerning section 13 of the current act.

(h) The questions are designed to achieve a specific answer.

I now want to develop some of the arguments to which I referred yesterday. Section 13 of the act provides:

> Despite any other act or law to the contrary, no public money may be appropriated, expended or advanced to any person for the purpose of encouraging . . . any activity associated with the construction or operation of a nuclear waste storage facility in this state.

That means that the government would be prohibited from funding the 'yes' case if the current questions go to a referendum. That is so because any money so used can be characterised as being used 'for the purpose of encouraging any activity associated with the construction or operation of a nuclear waste storage facility'. Not only does the government want to rig this poll by posing an unhelpful question, not only does it want to use it to get the member for Makin and not only does it want to waste public money for no purpose but it also wants to stifle public debate. It wants to gag the 'yes' vote.

I am proud of the Australian sense of fair play. Historically, at both state and federal levels, we have always funded the propagation of both sides of a referendum. However, in this case, the government chooses to cleverly stifle public debate on a political referendum. This is a new low in the democratic life of South Australia. It is stunts like this sleight of hand, through a devious process such as this, that cause many to treat the forthcoming Constitutional Convention and debate with extreme caution and cynicism. Indeed, this gagging of public debate on both sides of the argument has now been described as 'bipartisanship Mike Rann style'. It took us five years to become as arrogant as this government has become in five months.

I now want to turn to the issue of the government's laziness and duplicity on this topic of nuclear waste and, in particular, the minister's duplicity and hypocrisy. Last Thursday's forced revelation of the places in which nuclear waste is currently stored in this state has at last shown the lie of this government's general approach to this issue. In other words, the government has been exposed for what it is, and that is politics before policy. Let me demonstrate. In *Hansard* on 13 April 2000, the minister said:

> Let me make it clear that this bill does not attempt to control [this was in relation to a bill that he introduced] what is known as low level radioactive waste, of which a considerable volume is currently stored above ground in drums at Woomera.

Just to really nail the point, he went on and said:

> This material is known as category A, B or C waste.

He then described what category A, B and C waste included. So, a little more than 12 months ago, the minister was not seeking to incorporate any category A, B or C waste into this legislation, yet that is precisely what this bill seeks to do. On 5 July 2000, the minister said:

> However, I stand by the comments I made on that occasion.

He then emphasised the position regarding low level waste by stating that the bill that he was presenting had nothing to do with low level waste. On 5 July 2000 in another place, the then Leader of the Opposition (and now Premier), the Hon. Mike Rann, was involved in this exchange. The Hon. Graham Gunn said:

> You want to have a look back on what you people did in government.

The Hon. Mike Rann said:

> We opposed the location of a nuclear waste dump in South Australia and told our federal colleagues that.

I will come back to that later. On 11 July 2000, the minister moved that the referendum question be as follows:

> Do you approve of the establishment of a facility in South Australia to store category S nuclear waste generated interstate or overseas?

Category S is intermediate level waste, while categories A, B and C are low level waste. On 9 May this year he said this:

> . . . this bill has been introduced into the house to amend the act to prohibit all nuclear material, including low level to short lived intermediate radioactive waste generated outside of South Australia, being transported into the state and placed in a repository.

So, he has shifted ground again. We see this as a conscious effort on the part of Labor to change its position. All it wants is a referendum, and any question will do; one only needs to consider its changing positions between April 2000 and now to realise that this is the case.

I turn now to another element of Labor hypocrisy on this issue—a level of hypocrisy that taints the Premier in so far as this issue is concerned. Members might recall that in July 2000, as I said earlier, the Premier who was the then leader said:

> We opposed the location of a nuclear waste dump in South Australia and told our federal colleagues that.

That was in reference to what the Bannon/Arnold government did in relation to this issue. On 21 October 1991, the then deputy premier Don Hopgood shared a place at the cabinet table with the now Premier. The now federal Leader of the Opposition Simon Crean was the Minister for Primary Industries and Energy. On that day, Dr Hopgood wrote to the Hon. Simon Crean, as follows:

> Dear Simon
>
> I refer to your letter of 12 September 1991, regarding the need for national disposal facilities for radioactive wastes produced in Australia.
>
> The South Australian Government acknowledges the need for disposal facilities for radioactive wastes to be established in Australia.

I digress here to indicate that that is something that this government has not acknowledged and is walking away from and failing to address. The letter continues:

> Together with all other States and Territories and the Commonwealth, South Australia has radioactive wastes arising from medical, scientific and industrial uses of radionuclides awaiting disposal. We are also aware that future mineral processing opportunities could be jeopardised by the lack of a suitable disposal facility for radioactive by-products.
>
> South Australian government officials have participated from the outset in the collaborative development of proposals for national radioactive waste facilities through the Commonwealth/State Consultative Committee, and they took part in the desk study completed in 1986 to identify broad areas of Australia which are likely to contain sites satisfying the International Atomic Energy Agency's criteria for siting a low-level radioactive waste repository.

There is an element of greater maturity in that letter from the Hon. Don Hopgood, the then deputy premier, than anything we have seen from this current government. The letter goes on:

> Noting the Northern Territory Government's decision not to proceed with the proposal to establish a national low-level radioactive waste facility in the Territory, and Australia's pressing need for such facilities, I agree that South Australian officials should continue to take part in the desk study process with a view to preparing a short list of suitable sites for further discussion between the Commonwealth and the State Governments.

That is a pure statesmanlike approach compared with the head in the sand approach being adopted by this government. Indeed, the letter went on and pointed out who had the primary responsibility for the management of radioactive waste in South Australia and arranged for them to participate in that process.

So, how can the Premier stand by his statement to the effect that he opposed 'the location of a nuclear waste dump in South Australia and [we] told our federal colleagues that?' There was not one word about any opposition concerning the establishment of a dump in South Australia by the Premier's then cabinet colleague. In the last parliament, when standards were much higher in the other place, he would have been brought before a privileges committee. The letter stands in direct contradiction to those comments he made on 5 July 2000.

The Premier on 9 July admitted that this bill is simply about politics. He chose to ignore the letter from his former cabinet colleague referred to in the debate. He failed to address any of the matters that the then deputy premier alluded to in that letter. He can hardly claim any moral high ground in this debate and he lets down the high office of Premier of South Australia as a consequence. By all means play politics, but at least at some stage attempt to address the issues and offer a solution. Simon Crean is federal opposition leader, not Mike Rann, and my suggestion to the Premier is that he should stop playing politics. He should remember that he is no longer the Leader of the Opposition and that he has a role to play in a constructive fashion.

This whole debate has been underpinned by opportunistic politics on the part of Labor, and the following statement made by the minister in another place highlights that:

> I understand that the Victorian government has one central storage location in Melbourne somewhere. I think it is in a hospital (it may well be a university) but it has a central storage facility within the built-up area. From advice given, Victoria believes that is the best place to store that material.

That is enlightening, because then one might think that any responsible minister would then come forth and say, 'The options for South Australia are A, B, C, D and E. The government is considering what options it will adopt and may well engage in a process of public consultation.' But no, not this minister: he goes on and says that the EPA might become involved. In fact, he said:

> The former minister also makes great play of the fact that some secret plot is involved in this; that what I have really done is design it so that the EPA will eventually come and say, 'Behold, behold, the best place to put this is in the federal government's purpose-built facility,' wherever that may be.

He then goes on to say:

> As I said to the honourable member in answer to a question he asked in question time, that is highly hypothetical. First, we do not have a facility yet, and if we have our way with this legislation we will not; so, we will have to be responsible for our own waste. Secondly, we are pre-supposing what the EPA may or may not say.

That beggars belief. The fact of the matter is that he has identified that we need to do something about our low level waste and then walks away from it. And the only thing left in its place is this 'Get Trish Draper' bill. There is no constructive solution, there are no suggested options: it is just politics.

Indeed, that is confirmed over and over again throughout the debate in the other place. Mike Rann described this bill as his 'nuclear deterrent' and went on to indicate that this was all about federal Liberal members losing their seats. John Hill said this:

> As I have said before a multitude of times, this bill is about the politics of turning the commonwealth government around; it is not about raising other matters. . .

Wayne Matthew interjected:

> It's all about politics, is it?

The answer was:

> I have never said other than that.

What a gross dereliction of duty on the part of this minister. The best he can do in his contribution to this difficult and vexed debate about what we do with nuclear waste in this country and, indeed, in this state is to say, 'I am going to play politics,' and that, on any analysis, is a disgusting approach to the people of South Australia.

Indeed, it was very interesting that in the course of debate in another place the minister was asked some questions about nuclear waste and where it is being stored. Indeed, the shadow minister, the Hon. Iain Evans, in a lucid contribution—and I commend all members to read it—requested the following:

(a) the location by suburb of where radioactive waste is stored in South Australia;
(b) the type of waste stored and each location; and
(c) the volume of each type of waste stored at each location.

That request was made during the debate and repeated during the estimates committee. Indeed, in a letter of 1 August, the shadow minister wrote confirming that request. It is interesting to note that last Thursday the *Advertiser* on page 3 reported that nuclear waste is kept in 26 suburbs and towns. The article stated:

> Nuclear waste is being stored in 26 South Australian suburbs and towns it was revealed last night.

The minister went on and said:

> The presence of this waste highlights the need for SA to develop a strategy to deal with our own waste. . . We need to know where it is and what shape it's in. This is not an argument for adding waste from other states to that already held in our state.

That is something that we have been telling this minister from long before he became a minister. That is an important issue and this bill does nothing but deflect him and the people of South Australia from that very important and difficult issue. Indeed, there are some other issues that need addressing. I think it is important, and I would be grateful to get answers to these questions:

- Is radioactive waste currently transported in South Australia by road transport, rail transport, air transport and shipping? If so, are these forms of transport licensed by the commonwealth, the state, or both?
- Could the minister advise how much radioactive waste by category—that is, low, medium or high—is transported within South Australia each year by road transport, air transport, rail transport or shipping, and could he detail the extent of that?

The Hon. T.G. Roberts: Write to the commonwealth.

The Hon. A.J. REDFORD: He is the minister: he has the charge. There is another act—the minister interjects and he probably has not read it because he got an idea on this topic

back in the 1960s and nothing has changed since. There is legislation in relation to radioactive material which this minister has responsibility for, and that legislation gives him the power to licence the transportation and storage of radioactive material. In fact, I referred to it in my contribution yesterday. But, true to the minister's previous form, many new pieces of information do not seem to sink in. However, I must say that that bill has been in existence for well over a decade.

At the end of the day, this is simply an issue about politics led by what I perceive as the most political government this state has had in my lifetime and it is doing absolutely nothing to advance the important issue of what we do with our nuclear waste, not only in this state but also in this country. Indeed, as the debate has progressed, we have seen the minister ducking and weaving and, in the end, refusing to rule out the possibility of a need for a centralised nuclear waste facility.

It is extremely disappointing that there has been very little debate or very little comment on the part of Labor and, in particular, this minister as to what we are to do with this waste. In fact, there has been nothing said by him as to whether or not waste is best stored, as it is, across the metropolitan area in all those locations, including in the member for West Torrens's electorate. I checked today's Messenger Press newspaper and there is nothing in it, but I assume he is getting on with the job.

There has been nothing advanced in terms of an important public policy debate about whether perhaps it is best to store some of this material in a place which is relatively light on population and which has great geological stability. I urge members to vote against this ridiculous political exercise.

The Hon. SANDRA KANCK: The Hon. Angus Redford will be relieved to know that the Democrats' position is the same as we have taken on nuclear issues for the last 25 years, so there will not be much change in what I have to say compared to what I have said in the past. South Australia has borne a disproportionate burden of things nuclear in Australia. The tally list, which is not exhaustive, includes Radium Hill, Olympic Dam, Beverley and Honeymoon mines; the processing of uranium at Port Pirie and the fact that locals in that city were exposed to radioactivity through unfenced retention ponds; the transfer of waste from Lucas Heights and St Marys to Woomera early in the 1990s; and the botch-up of the Maralinga tests and their impact on Aboriginal people.

I grew up in Broken Hill, and many of the workers who worked at Radium Hill lived in Broken Hill, mostly on the weekends and, as was the practice at the time, the wives did the washing. To my knowledge, all the wives of the men who worked at Radium Hill have subsequently died of various forms of cancer. It is an enormous cost. We have had to endure the litany of spills at Beverley; we have seen the contamination of ground water at Roxby Downs; we have seen fires at Roxby Downs; and the Honeymoon mine now has its approvals. We do not seem to be able to get away from these links in the nuclear industry. At Roxby Downs, as a consequence of this parliament giving its approval, the operators of the mine are able to use up to 42 megalitres a day of water from the Great Artesian Basin. Although I know that at this point they have not yet reached that limit, the option is still there for them to use as much as 42 megalitres a day.

I do not know whether members heard the contribution of an Australian academic on Radio National a couple of weeks ago, suggesting that the Great Artesian Basin in fact does not recharge; that this water was put into that spot almost at the time of creation of the planet. If that theory is proven to be true, our giving approval for up to 42 megalitres of water a day to be used in the Roxby Downs mine is a huge cost that we pay for South Australia to be involved in the nuclear fuel cycle. I noted the waste that has been transferred to Woomera. In 1994 we saw the transfer of radioactive wastes from Lucas Heights to Woomera, courtesy of a federal Labor government with no consultation so, on that point, I can certainly agree with the Hon. Angus Redford about the hypocrisy of the Labor Party.

Then in 1995, material that included category S waste was transferred from St Marys in New South Wales to Woomera, with the blessing of the federal Labor government and also, might I say, with the complicity of the state Liberal government. The then Premier, Dean Brown, in his letter to the Prime Minister did not say no to this waste coming to South Australia, as one might have expected him to do to represent the interests of South Australia. Instead, he wrote back to the federal government and used the transfer of that waste as a bargaining tool, saying that a condition of South Australia's accepting that waste was that the Lake Eyre Basin not be nominated for world heritage listing. So, from my perspective this was a case of heads the public loses, tails the public loses.

Maralinga is another of South Australia's links in the nuclear chain, and its impact on the Aboriginal people who lived in that area is on public record. After almost 50 years the clean-up has still not been done properly. Less than two-thirds of the uranium that was supposed to be there has been recovered and, because of an explosion that occurred in the clean-up process, the plutonium that has been recovered has not been immobilised as was the original agreement, which was part of the clean-up undertaking. As things stand, 120 kilometres of that land is still uninhabitable. Recent studies have shown that plutonium is much more water soluble than originally thought, so the fact that that clean-up at Maralinga has not been properly done is cause for continuing concern.

I know the arguments that are used against people who oppose South Australia's further involvement in the nuclear fuel cycle, against people like me who oppose any sort of radioactive waste dump using material from interstate or overseas being located in South Australia, and I will quote their arguments. Two years ago Senator Nick Minchin, the minister charged by the federal government with dealing with this issue—and, by the way, a South Australian senator, again not representing South Australians—issued a media release in which he stated:

> All states and territories benefit from the use of radioactivity in medicine, industry and research. All states and territories should continue to cooperate in the search for a store for the resulting intermediate level waste. It is simply irresponsible to want all the benefits of radioisotopes but then to walk away from dealing with the waste.

From the litany of examples that I gave before reading out that statement, it is clear that South Australians have already paid a price that is far too high. We have paid a disproportionate cost compared to the rest of Australia. I do not believe that South Australians should have the waste of the rest of the country foisted on them. Just going back over the history, back in the late 1980s the then federal Labor government began the process of looking for a dump for nuclear waste. ANSTO conducted a feasibility study to locate a dump in the Northern Territory but in 1991 the Northern Territory government announced that it was no longer interested in

being part of that idea. The federal Labor government restarted the process in 1992 and a state Labor government here in South Australia agreed to be part of that process.

A number of other things happened in the meantime, such as the transfer of waste from St Marys and Lucas Heights to Woomera, but in 1998 a proposal emerged from the Canadian-based Pangea Resources to import high level waste from overseas and locate it in desert regions of either Western Australia or South Australia. The Western Australian government passed legislation to prevent its being located in Western Australia, which left South Australia as the next option, so in 1999 I introduced a private member's bill to prevent South Australia being the location for that. Unfortunately, neither Labor nor Liberal members bothered to speak on that piece of legislation, even though it sat on the *Notice Paper* for seven or eight months.

That bill of mine in the Legislative Council was followed shortly afterwards by a bill introduced in the House of Assembly by then shadow minister John Hill, which dealt with Lucas Heights waste. Two years ago the search for a national low level waste repository began to focus exclusively on South Australia. All the other states were excluded, and five potential sites were narrowed down in our state. The Aboriginal women of Coober Pedy, the Coober Pedy Kupa Pita Tjuta, led a strong campaign against a dump being located on their land.

It appears to me at this point that the Liberal government must have done some polling because it then decided to introduce its own bill, which was similar to the bill that John Hill introduced in the lower house. This was a bill to prevent the location of a national repository for medium level waste. That bill was debated and passed but, in the process of dealing with it in the upper house, the Democrats attempted—unsuccessfully, unfortunately—to incorporate amendments for a referendum on the issue of any level of radioactive or nuclear waste being imported into South Australia. The Labor Party did support the Democrats on that, so it is showing some consistency.

Since then, the choice of a site has been narrowed down from the five possible sites in South Australia to one near Woomera. That has been determined, by the site selection process, as being the safest place to store the nation's low level nuclear waste. The selection criteria included geology, ground water, capacity for flooding, nearness to fault lines, the distance from where people were living, transport access and prospects for long-term control and security. It seems, however, that it failed to look at the issue of proximity to a rocket testing range, which I think is somewhat laughable. This fact escaped attention, but that is the reality of the location that has now been chosen.

One of the concerns for the Democrats is that, if this site is the safest for low level waste in terms of the geology, ground water, flooding, nearness to fault lines, and so on, logically it must also be the safest place for medium level waste. We need to ask the question: what is driving the federal government to find a suitable site for a national repository? It is actually about the proposed new Lucas Heights reactor. The government will be sending spent fuel rods overseas for reprocessing and, as part of that reprocessing, category S waste will come back to Australia. Unless there is a place for that category S waste to come back to in Australia, it makes it very difficult for the federal government to begin construction of the new nuclear reactor at Lucas Heights.

As I have said, if Woomera is the safest place in Australia for storing low level waste, it must surely also be the safest place for storing medium level waste; and it must surely also be the safest place to store category S waste, that is, the material that would come back from overseas as a result of the reprocessing of Lucas Heights fuel rods. South Australia already has category S waste at Woomera from the covert 1994 shipment from Lucas Heights. I am sure that was part of the reasoning behind making a decision for Woomera as the national waste repository for low level waste.

The argument that we need a new reactor, however, is also fuelled by the argument that we need medical isotopes, but the reality is that a cyclotron can produce those medical isotopes. If we can have the medical isotopes produced in cyclotrons, the whole argument for a new nuclear reactor is removed; therefore, the need for a place for category S waste is removed; therefore, the need for a medium level waste site is removed; and, therefore, the need for a low level waste repository is also removed because that is really what the low level waste repository is about.

What will be the impact of locating the low level waste repository here in South Australia? I turn to a transcript from ABC Radio on 5 August, as follows:

> There's concern that the image of South Australia's seafood industry is being threatened by proposals for a nuclear waste dump in the state's far north. Industry members say, while the dump would clearly be sited well away from the sea, that's of little consequence to export customers. Port Lincoln tuna and kingfish farmer, Hagen Stehr, says perception of the proposal is threatening to tarnish the state's international image.

Hagen Stehr is then quoted as follows:

> If you walk into an office in Paris, like I did the other day, they'll throw a paper in front of you and just have a look at it; you're becoming an atomic dump. We ought to go very, very carefully because it is important for a lot of other primary industries. We are always going around promoting this clean and green image and it took us years and years to come to this standard so we don't just want to lose it overnight.

Although this dump would be many hundreds of miles away from Port Lincoln, the message that is coming through to fish processors in Port Lincoln is that their potential buyers overseas are concerned about possible contamination. They do not know how far away the dump is from Port Lincoln and the fish processors.

It raises the issue of where the waste will travel. The draft EIS, which was recently released on the national radioactive waste repository, includes a map. I have looked at both the EIS and the larger document of the route for travel. Road travel is preferred. While the details are not clear, it states that waste from Victoria will come up from Melbourne through to Mildura. The draft EIS states 'Renmark', but it does not state what other parts of the Riverland it will go through. As best I can tell from looking at the map, after it goes to Renmark it goes through to Morgan before it heads north to Burra and onto Woomera. Effectively, that means it goes through most of the Riverland. Again, we have that issue of 'clean and green' coming up. It would certainly not be good news for the primary producers in the Riverland, if fish producers in Port Lincoln are being told of a reaction against this dump being located in South Australia.

The strategy of this legislation, I have to say, is quite breathtaking. When I heard the announcement earlier in the year, I thought, 'This is very clever.' I notice that the President is smiling very broadly—and well he should. It is a very clever strategy.

The federal legislation will take precedence over state legislation, so without the referendum clause in this bill it would have very little effect. It is a fear tactic, quite unashamedly. It is a fear about Liberal members losing their seats at the next federal election. From my point of view, if fear of that is what it is going to take to keep the feds at bay, then the Democrats are quite happy to go along with it. The power, obviously, will be in the timing. I know that the Hon. Angus Redford expressed concern that there was nothing in the bill about the timing: it will be left up to the government to choose it, and I think that is appropriate because that is where the power lies in this issue.

To run a debate about South Australia's being the dumping ground for the nation's nuclear waste—which is a position that has been supported by most federal Liberal MPs—concurrently with a federal election campaign would almost certainly place any plans on hold to locate it here in South Australia. While I can sympathise with the views presented by the Hon. Angus Redford, I still think it is a masterful plan. The honourable member talks about the hypocrisy of the ALP and, sure, I agree, but, nevertheless, if this is going to work it is going to work.

As far as hypocrisy is concerned, I am just wondering whether or not the ALP has a three-mines policy in South Australia. It seems to be quite happy to allow uranium mines to proceed while at the same time saying, 'We cannot have the waste.' There is an argument that says you cannot have it both ways. The Democrats' position is that we should not have the mines and we are just as strong on saying that we should not have the waste. We want to stop all those links. People say: if we do not have this waste what should be done with the waste that we already have? The Democrats' long-held position is that South Australia and South Australians should not have to take responsibility for the waste from other states, no matter what sort of waste it is.

It is objectionable that we are faced with the possibility of having to take radioactive or nuclear waste. At the same time it would be equally objectionable to the Democrats for South Australia to have to take chemical waste from other states. There is a point of principle about this, that the people who make the waste should have to bear the responsibility of it no matter what sort of waste it is. The Democrats' position has always been that each state must be responsible for its own waste. When we first advocated this position I had a little difficulty getting some media commentators to understand that, and I have, on a number of occasions, spent a lot of time explaining it.

This is not a case of 'not in my backyard'. We say that the waste that South Australians create should be kept in South Australia. We should not ask the people of Queensland, New South Wales, Victoria or any other state to take responsibility for the waste that we create here in South Australia, nor should they ask us to take responsibility for their waste. When I explained that to one media commentator he said, 'This not a "not in my backyard" policy: this is, "we will have it on our back verandah, thank you very much," and I said, 'Yes, that probably is how we explain it.'

In 1991 and 1992 I was the Conservation Council's representative on the Hazardous Waste Management Consultative Committee. Unfortunately, the work of that committee did not come to any fruition because, at that time, the incoming Liberal government decided that we could not afford the money to set up such a repository. As part of that particular committee, I successfully recommended that any hazardous waste had to be kept visible; that it had to be kept above the ground; that it ought not to be just a dump; and that, as part of any hazardous waste repository, we needed to keep transportation and handling of the material to an absolute minimum.

Just as it applied to hazardous waste, we apply those same standards to radioactive and nuclear waste. Keeping it in our own backyard means that we see it, sometimes from day to day and, because we see it, we know, for instance, whether drums are beginning to rust and we can do something about it. If we move it somewhere out into the country, we move it away from the people who have the greatest amount of expertise in terms of things going wrong. It needs to be kept close to the points of manufacture and it needs to be kept close to the city. I do not think that the Labor Party has necessarily seen the light on this issue: rather, it knows that South Australians do not want this dump.

I recognise that it is a populist measure, however, it coincides with the Democrats' aims. The motives for the ALP's doing what it is doing are immaterial to me at this point. I indicate that I will be discussing with parliamentary counsel the preparation of amendments to prevent the importation of other states' low level waste into our state and to see whether the proposed referendum questions can include one about low level waste. However, I indicate Democrat support for the second reading.

The Hon. CAROLINE SCHAEFER: This bill seeks to change South Australia's position on the storage of low level radioactive waste in either categories A, B or C, that is, to store in a national facility low level radioactive waste of that category. The bill seeks for the minister to have an option to call a referendum on the question: Do you approve of the establishment in South Australia of a facility for the storage or disposal of long lived, intermediate or high level waste generated outside of South Australia?

What seems to have been missed in this bill other than that, as the Hon. Sandra Kanck says, it is an exercise in opportunism and hypocrisy, is that, to this stage, no party in this place has supported the storage or disposal of long lived, intermediate or high level waste generated outside of this state. I speak against this bill. The previous government fully examined the issue of the storage of low level radioactive waste, and finally it agreed that a site in the Far North of South Australia was the best and safest site to bury Australia's low level radioactive waste permanently in shallow trenches.

The previous government also indicated to the commonwealth that in return South Australia would not expect to house the intermediate level radioactive waste above ground storage facility. It was not a decision taken lightly. Members on both sides of the council had to consider carefully what was fact and what was fiction, and an increasing amount of fiction seems to be being generated by this particular debate. Certainly, the antinuclear activists were quick to flood the media with extremely emotive, frightening and unsubstantiated claims. For some, just being near radioactivity appeared to be inherently dangerous, even though, in fact, radioactivity is around us all every day, both in the form of background radiation and in radiation from medical procedures.

Radiation comes from many sources: rocks, soil, cosmic radiation from outer space, the air we breathe, the water we drink and the food we eat. Some of the highest background readings in Adelaide are, in fact, within these granite walls of Parliament House, because granite does emit some low level radiation, and a readable quantity. Exposure to radiation

per se is a natural and safe part of everyday living and always has been. Only amounts of radiation significantly above background levels have the potential to affect health, and that is why a responsible government would ensure that any low level waste is permanently stored and constantly monitored.

I remember reading, I think a couple of years ago, of one potentially dangerous radiation incident report written by a Dr John Patterson of the Department of Physics at the University of Adelaide, who personally cleaned up after a plumbing leak flooded the radiation lab and water flowed into the adjacent store where the lab's radioactive sources were kept. Fortunately, following the doctor's mop-up, radiation levels were monitored, which showed that no radioactivity had escaped. The store, incidentally, is located under the toilets. Dr Patterson was very concerned that old radioactive sources, such as those contained in two lead boxes lying in the water, should be properly disposed of in a repository when no longer needed.

Dr Patterson said in the *Adelaidian* university newspaper in August 2000:

> Such floods and fires pose a hazard to emergency services people. It is therefore desirable that storage of radioactive materials in the university and other similar places should be minimised by proper disposal in a repository when no longer needed.

This is precisely why we need a centralised, monitored repository, one where concise records of each source are kept for hundreds of years and where records are not lost with the changing of personnel over time. If we had even one radioactive waste incident in our city, the public would scream for a safe repository and would call for the safe burial of low level waste in the right geological site. Low level waste is dealt with in this way in 30 countries around the world and, as I understand it, they are the 30 safest storage areas in the world, rather than the least.

As we all know, there are stores of low level radioactive waste across Adelaide, including the Royal Adelaide Hospital on North Terrace and in Adelaide University. Medical centres and factories across Adelaide currently store low level radioactive waste. It may be worth reminding people again that low level radioactive waste includes things like clothing worn during x-rays and mobile phone batteries—some fairly innocuous types of waste. Some of these facilities also store a small amount of intermediate level waste.

This is waste that has been generated benefiting South Australians in diagnosing and treating illness, in manufacturing goods for export and in scientific research. The current stores are safe at present, but it makes far more sense to take this waste out of cities and house it in one central facility in non-metropolitan Australia. That is why the previous state Liberal government agreed to a central national repository. Further, if we participate and accept that this is South Australia's role, we will in return be able to insist on sending our small amount of intermediate waste to the intermediate waste storage facility when it is established.

The previous government indicated that it would not have the above-ground intermediate waste facility in South Australia because we will have done our share by taking on the low level waste responsibilities. A suitable building site—for that is what is needed for an above-ground intermediate store—can be found in any other state, and perhaps in a state that produces far more intermediate waste than we do.

Of course, it could be said that New South Wales already supplies the whole country with much needed radioisotopes from the Lucas Heights reactor, so that state should also be exempt from housing the above-ground storage facility, and maybe it should be. I note that the Premier stated in the other chamber that, 'because Lucas Heights is situated in New South Wales then radioactive waste from Lucas Heights is New South Wales' problem.' I point out that the work of the research reactor at Lucas Heights benefits all Australians across a range of areas. A research reactor provides a guaranteed supply of medical radioisotopes for diagnostic and therapeutic procedures. About 180 nuclear medicine centres in Australia perform more than 430 000 diagnostic tests and treatments annually for the detection and treatment of numerous illnesses and medical conditions including cancer, thyroid and heart disease.

In South Australia, 20 000 people benefit annually from radioisotopes. Almost 80 per cent of these are reactor-based. On average, every Australian will require a medical radioisotope during his or her lifetime. ANSTO is Australia's only producer of radioisotopes. In the environment, radioisotopes are used for river and coastal zone erosion and sediment studies and for tracking pollutants in the marine environment. By using radioisotopes we can trace sewage from ocean outfalls or small leaks from complex systems such as power stations and heat exchangers. Radioisotopes are widely used in South Australian industry in process controls in the metals, paper and chemicals industries and for non-destructive testing. ANSTO is one of the world's largest sources of irradiated silicon, which is used in advanced computer chip production.

For our important mining and energy sector, radioisotopes are used to analyse ores and improve extraction processes. Some of these processes result in low level radioactive waste and some in more intermediate levels. As all states and territories share the national benefits of having a research reactor, it is appropriate that they be prepared to do their share in finding a safe management solution for Australia's low level and intermediate level radioactive waste.

Half of Australia's total radioactive waste is already stored in South Australia. It was moved to Woomera by the previous federal Labor government in 1994 and 1995. It consists of 2 000 cubic metres of lightly contaminated soil, together with some intermediate level defence waste. This waste would immediately be deposited in the near-surface repository. The repository would also accommodate Australia's hospital and industrial low level waste which includes paper, laboratory glassware and clothing, and industrial smoke detectors. This material will be placed in containers in appropriately designed trenches and the low level waste would lose its radioactivity 30 years after being placed in the repository. It makes perfect sense, yet the new Labor government is simply politicising the whole issue.

This government is very good at reading the mood of the public and changing its policies to fit with that public perception. The minister for the environment in the other chamber last Tuesday freely acknowledged that a former federal Labor government brought the waste into the state. He knows that it was in fact his current federal Labor leader, Simon Crean, when he was federal minister for primary industries, who first called for a national centralised store for low level waste in 1992—10 years ago. The minister also knows that his current federal Labor comrades still support the siting of a low level repository on commonwealth land in South Australia because they know that it is the safest place for it to be stored.

And now, because of his reading of the mood of the electorate—or should I say creating the mood of the elector-

ate, with a certain amount of fear and hysteria—the minister has said, and I quote from *Hansard*:

> . . . the Labor party may have made a mistake in the past. That does not mean that we cannot make different decisions now which are in the best interests of the state.

Thirty other countries must have made similar mistakes when they set up their near-surface repositories! Australian scientists who have studied and searched for over a decade for the safest geological site for the repository must also be wrong.

I have already indicated what the minister's federal Labor colleagues and I think in terms of the national interest. Why would we leave the low level and a small amount of intermediate level nuclear waste in 50 temporary storage sites around Adelaide instead of putting it in a purpose-built national facility where it can be properly managed? Leaving waste in 50 sites is not in the best interests of this state, nor is the suggestion that we could do as Labor has done in Victoria and fund a specific centralised store for low level waste, right in the middle of our city.

The Labor government in South Australia does not act in the interests of the state or the nation. It is intent on using this for a political electoral advantage. Leading up to the state election, Labor deliberately fuelled the anti-nuclear hype which had already taken off courtesy of some sections of the media. It continues to fuel that flame today by its continued use of the phrase 'nuclear waste dump', which it knows provokes an emotional and negative response in the public eye. It seizes every opportunity to further confuse and frighten the public, and a referendum is just an extension of the whole campaign to gain some sort of electoral advantage. I challenge the Premier and Labor members to stop labelling the low level radioactive waste repository as a 'nuclear waste dump'. It is emotive and inaccurate language designed to deflect from sensible and proper debate.

Let us stop confusing the general public and start referring to the low level radioactive waste repository by the correct title, a title that is clear and concise as to exactly what level of radioactivity is involved. This bill proposes to ban all of Australia's low level waste from being safely and permanently stored in a national repository in the safest site in the country.

Waste products, including laboratory equipment, syringes, protective clothing, etc., are currently stored in a range of places and in a range of ways across this state, with no regulating regime in place, and individual waste producers have responsibility for their own radioactive waste. As a consequence, waste is not necessarily stored as safely as, or in the best manner, it could be, and those using these materials do not necessarily have the best expertise for storage of the waste. This bill makes it an offence to create such a long-term safe facility in the safest place in the country. It is the wrong way for this nation to proceed. It is not the responsible direction for current and future generations of Australians in relation to managing radioactive waste. I will not be supporting this bill.

The Hon. DIANA LAIDLAW: I, too, oppose this bill. The safe and secure disposal of nuclear waste is a most serious matter. It is therefore of grave concern to me that, with this bill, the government has sought to politicise and trivialise this important issue. In part, the bill proposes to amend the definition of 'nuclear waste' to include all low level radioactive waste. When taken into account with current provisions of the act, this amendment has the effect of prohibiting the construction and operation of a low level waste facility or repository in this state.

As noted by other members, the definition of 'low level radioactive waste' is broad and ranges from laboratory equipment to glassware, paper, plastics and soil, and it is scientifically listed as category A, B and C waste. There is a lot of this waste in our community today, and there will be a lot more in the future. However, this bill seeks to ban the safe, secure and long-term disposal of the waste generated on a daily basis. I think that is completely wrong, inappropriate and irresponsible. It would be wiser (but I suspect that no member opposite would argue such a case) that such waste were not generated at all.

I would like to know the services, which provide on a daily basis extraordinary help, relief and cure to many people in our community, that the government would be prepared to remove from hospitals and the like. Labor does not argue that those services should be withdrawn; it simply will not face up to the fact that those services generate waste and that that waste, as with all waste in our community, if generated, must be safely, responsibly and securely disposed of in the short and longer term. It is a sadness to me to see the Minister for Environment (for whom I normally have some considerable regard) in his contribution not being prepared to acknowledge that we have a problem.

Recently, he was very upset, and rightly so, about some sewage disposal in his electorate and the southern suburbs. I wish he could be equally upset about how we should be responsibly disposing of the waste generated from a range of activities which have a nuclear base. It is very revealing that, in playing politics—and therefore trivialising this very serious matter—the Labor Party in government is prepared to deny what it was prepared to acknowledge in opposition some 12 months earlier. This is a reversal of what would normally happen.

Too often, you see an opposition taking every opportunity to take advantage of a situation knowing that it will not need to be responsible for the outcome. It is not a desirable approach and I argue consistently against it. However, I acknowledge that in opposition the Hon. John Hill was prepared to talk about the issue of low level waste stored at Woomera and elsewhere. However, in government, when you would think he would seek to deal responsibly with the problem, he is not prepared to even acknowledge the issue that we have here in our own backyard. I suspect that he would not be prepared to reveal, even as a member of this so-called open, honest and accountable government, that there are at least 26 sites in the metropolitan area where low level and short-lived intermediate waste or intermediate level waste is being stored.

I suspect that he would not have revealed any of this information without being pushed by the Liberal opposition in the other place—and I particularly applaud the conduct of the Hon. Iain Evans for taking a lead in gaining the information published in the *Advertiser* of 15 August. Other members have referred to this table, which identifies where various levels of nuclear waste are presently stored across the metropolitan area. A total of 26 sites were named. It is revealing that the minister has acknowledged that the government—particularly the Radiation Protection Branch of the EPA—has no idea, concerning the 26 sites, where waste is stored, whether waste has been stored for a long time or whether there are additional sites. In relation to this uncertainty, the *Advertiser* reported on 15 August this year:

Mr Hill said the Government was unable to provide accurate details of the volume, type and location of all radioactive waste until an audit was completed.

Hopefully, that audit will be undertaken promptly and we will be given a full and frank account of all information once the audit has been completed.

Of the 26 sites known to date—or, at least, sites that have been used for some time—the broad localities are mentioned but not the specific building or repository. Of the 26 sites, 21 relate to low level and short-lived intermediate level waste, and 14 of those 26 sites are identified as places where intermediate level waste is being stored or has been stored in the past.

On reading the minister's second reading contribution in the other place, it seems to me that without being pushed by the Hon. Iain Evans, and the Liberal Party generally, Mr Hill would not have been as prepared today to deny that uranium is stored right in our midst—possibly across the street or down the road—as the government was prepared to deny opportunities provided by Roxby Downs some 20 years ago. It has been very easy for the Labor Party, ideologically and politically, simply to say no every time this issue of uranium is raised, without dealing responsibly with the opportunities and issues that arise from the mining and later use of this material.

I take exception to the reference by the Labor Party to the term 'dump' in terms of the disposal of this material. It is not dumped now in our metropolitan area or more broadly across our community, and nor should it be. The trouble is that it is not disposed of in a safe, secure way for the long term. It is in temporary storage, but it is not being dumped now. As a responsible community, parliament and, one would hope, government, we should aim to ensure that what is in our midst already is removed and disposed of in a safe, secure, long-term manner. It is not dumping. It is not like just getting rid of disposable nappies on the side of the road or green vegetation or other rubbish in rubbish bins.

This is a serious issue that is now being dealt with on a temporary basis. It is not satisfactory and, in looking at long-term disposal, it does little credit to the Labor Party to suggest that this is the dumping of material. In terms of honesty and accountability in government with respect to educating the community so that it can come to grips with the issues that are in our midst, I would argue, as the Hon. Caroline Schaefer has, that 'dump' may make a good 20 second grab on the television or in a political pamphlet but it does little to address what the Labor Party should know—and what the rest of us do know—is a problem. Our community deserves better than what it is being delivered now in terms of the disposal of the material, and it certainly deserves better from the Labor Party in terms of facing up to its responsibilities.

I want briefly to outline my objections to the issue of the referendum. I acknowledge that the Hon. Sandra Kanck has concluded that this is a smart political tactic. I think the Hon. Terry Cameron revealed, most appropriately, the basis on which the Labor Party has advanced this issue: it is for simple party political purposes, not for community gain. I think it is interesting, in terms of this referendum proposal, that the bill provides that the minister can choose a time when a referendum could be conducted not on the basis that an application, a licence or an exemption has been lodged for any disposal facility, but simply that it is 'likely' to be made. It is pure speculation whether the Labor Party just wants to drum up an issue because it has another difficult issue on its plate and does not want to face it, or whether it wants to run a diversionary tactic during an election period and wants state government funds to be used for this purpose and not Labor Party generated funds.

I am not sure what the range of excuses could be. But there could be all manner of excuses used by the minister on the basis that it is simply likely that a licence, exemption or other authority to construct or operate such a facility was to be made. That is not a proper approach for us to legislate any matter here, particularly one that so many members—including supporters such as the Hon. Sandra Kanck—have acknowledged is simply a political tactic. It is a political tactic using state government funds, and it is a political tactic with respect to a very serious issue but with a base political outcome, as far as the Labor Party is concerned.

I know the Hon. Angus Redford has said that this bill is a 'Get Trish Draper' bill, and others have suggested that the Liberal Party's concern is simply about the potential to lose seats. I highlight that I do not come to this bill from either perspective. As an elector within the federal seat of Adelaide, I know that the Labor Party candidate at the last federal election, Mr Tim Stanley, has already tried to drum up, with false facts and inflammatory language, a campaign against the then member (and, fortunately, returned member) Trish Worth. Tim Stanley put out a brochure some two weeks before the last federal election campaign—and I suspect that, in terms of his strategy, his timing was poor: it possibly would have had more effect had it been put out a couple of days before the election. By putting out this pamphlet some two weeks beforehand, it enabled Trish Worth to circulate the facts.

I want to illustrate the lengths to which the Labor Party will go on this issue. I think it is important, when looking at this pamphlet, to reflect on the options provided in this bill for the referendum. Judging by the way in which Tim Stanley distorted the facts, I can imagine that the Labor Party would envisage doing exactly the same, or could potentially do exactly the same, during an election campaign on the basis that it is likely—purely speculative—that there could be an application, not the fact that there is any basis in fact that an application has been lodged for any such repository. Tim Stanley's pamphlet states:

Trish Worth's plan to dump Nuclear Waste in SA.
The Plan. Dump all other states' Nuclear Waste in SA.
The Facts. Trish Worth fights for Nuclear Dump in SA.

The pamphlet then states, under the heading 'The Proof':

'[Those] who argue that radioactive waste should be stored anywhere but South Australia are acting irresponsibly and not in the best interests of the wider community'.

They quote Trish from *Hansard* in the commonwealth parliament, but no date or page number is given, which in itself is suspicious. The pamphlet further states:

We deserve a better plan for SA than a Nuclear Dump. Vote Labor.

It also states:

Don't dump Nuclear Waste. Dump Trish Worth!

What is of interest to me is that the pamphlet states that we, as the electors of Adelaide, deserve a better plan for South Australia. Members of the Labor Party in this state have no plan at all, because they are not even prepared to do the work or put their head up or act responsibly. At least the Liberal Party, both federally and in this state, is working through the issues. It is doing so up front and with environmental

statements, in the best interests of the nation and, overall, has been prepared to confront the issues.

In reply—and this was circulated to every letterbox across the electorate—Trish Worth released a response with the heading, 'Who has a plan to make Adelaide nuclear free?' In big bold black writing, it stated, 'Not Labor,' and that is true. Trish Worth goes on to say:

> I will continue to fight for a good scientific plan to make Adelaide safer.

She backs up that statement by including a map with a key to sites where nuclear waste is being stored across the metropolitan area and throughout the federal seat of Adelaide. She nominates those sites as being the South Australian Health Commission, the Royal Adelaide Hospital, the University of Adelaide, the University of South Australia, the CSIRO at Glen Osmond, the Edinburgh RAAF at Salisbury, the Flinders University at Bedford Park, and Water Resources SA at Frewville. Edinburgh RAAF and Flinders University are just outside the electorate of Adelaide.

I will read the brief letter that Trish Worth distributed to the electorate of Adelaide, as follows:

> I will continue to fight for a good scientific plan to make Adelaide safer. Labor's Right faction lives by the motto—'Whatever it Takes'. Faction heavyweight, Graham Richardson even used it as a book title.
>
> The Labor Right faction is running the campaign against me in Adelaide. They are distributing material claiming that 'Trish Worth fights for Nuclear Dump in SA'.
>
> As someone who paid my own way to go to Tahiti to march in international protests against French nuclear testing, I am astounded by such propaganda. . . particularly as it was a Labor Government in which Kim Beasley was a minister that dumped 35 cubic metres of intermediate waste at Woomera in 1995 without consultation.
>
> I've been arguing that we 'need good scientific advice, not mad political point scoring' to have low and intermediate radioactive waste safely removed from local sites such as:
> · Royal Adelaide Hospital
> · University of Adelaide
> · South Australian Department of Human Services, Kent Town
> · CSIRO, Glen Osmond
> · South Australian Department of Water Resources, Glenside.

The pamphlet continues by citing Labor's alternative and quoting Mr Beasley. On 15 October 2001, at the South Australian Press Club he said that he would not make up his mind on the issue of the disposal of waste in the next parliament at all. In other words, it will not be until after 2004. So, they have not wanted to face up to this issue at the federal Labor level and they certainly do not want to do so at the state level. Trish's pamphlet continues:

At the South Australian Press Club on 15 October 2001, Mr Beasley evaded the direct question put to him. . . 'so you would prefer to keep SA's nuclear waste within the 20 sites that it is already housed?. . . 'With regard to this question, Trish says in the pamphlet:

> This is a question that I will not evade. I will continue to fight for a good scientific plan to make Adelaide safer—and leave the petty politics to Labor.

In opposing this bill, I strongly commend Trish Worth's courage in fighting this dishonest battle waged by Labor about a so-called nuclear dump in South Australia, and Trish's support for such an effort. That was wrong. In the past they also denied the fight against nuclear activity. Notwithstanding the facts, Labor was prepared to just beat up a story for its own base political advantage.

To the electors of Adelaide, I am thrilled that Trish Worth, as a decent, honest member, was able to fight off this base campaign from the Labor Party. If the Labor Party got its way with this bill and this referendum, Trish Worth, by presenting the facts, would be able to do so at the same time. State taxpayers' funds should not be used for Labor's propaganda on an issue that demands much more considered argument away from the heat of an election. If the South Australian voters do not like what the federal government wants to do on this or any matter, every three years they have an election to express their view and at every other time to tell their local members of parliament.

A state government funded campaign is not needed to deliver those messages to the federal government. Based on the way in which Labor—particularly Tim Stanley—has used this matter in a political context, I would have no faith in the way in which Labor would present the arguments during an election campaign, other than to use state taxpayers' funds for its own political gain. I reject this bill for a whole range of reasons. Nevertheless, I call on the Hon. John Hill and all his Labor colleagues to put the energy that they have devoted so far to the politics of this bill towards developing a plan that is in South Australia's interests, dealing with a problem that we have in our midst and dealing with a problem that is not being dealt with appropriately now or for the longer term.

The Hon. NICK XENOPHON: I indicate that I will support the second reading of this bill. However, I have reservations in respect of a number of aspects of the bill. My support for the third reading of the bill is by no means assured, particularly as the bill currently stands. I do not want South Australia to be seen as a dumping ground—as the government puts it—or a repository for nuclear waste for all Australia. There is great concern about that, particularly in relation to medium level waste. In the context of the contribution of the Hon. Angus Redford and the Hon. Iain Evans in the other place, it is also fair to say that there ought to be some honesty in the debate in the context of our having to deal with the issue of low level waste within our state. It is pleasing to see that the Environment Minister (Hon. John Hill) has acknowledged that this is an issue, that there must be facilities and there must be a strategy in place to deal with low level waste in terms of a central repository rather than simply having low level waste throughout the state.

Members know that I am sympathetic to the concept of referenda. Referenda are a way of engaging the population to deal with issues of public importance and, as a general principle, we ought to have more of them. I am also sympathetic to the view that you need to look at and have robust debate on citizen initiated referenda, although there ought to be in place strong safeguards and high thresholds before such referenda can be triggered. If such a sea change is contemplated, there ought to be significant public policy and community debate before that matter is dealt with by this parliament.

The whole idea of having a referendum in the middle of a federal election campaign smacks of, at the very least, opportunism—some would even say it is a political stunt. My concern is that, if this government is committed, as I believe it is, to not having a medium level nuclear waste dump in this state, it ought to get on with the referendum much earlier so that it can flag its opposition to the federal government and to federal members of parliament in this state at a much earlier stage. But it also raises the issue, if we are to have a referendum on what is, I agree, an issue of significant public importance, of whether we should consider referenda on the same day on other issues of public importance. That is a question that I pose to the government in terms of the use of taxpayers' funds in the context of this debate.

There are some other issues that I wish to raise in relation to preventing South Australia being used as a central repository or dump for low level and medium level nuclear waste. I believe that there is merit in the state government looking at current state legislation with a view to appropriate amendments that would have the effect of stymieing any national nuclear waste dump in this state. The Road Traffic Act does not currently prevent the carriage of such material which would prevent its being stored in a waste repository. However, I believe that this parliament has the power to amend the legislation or the government could regulate under section 176(1) to prohibit the transport of nuclear waste along all or along prescribed state public roads. That act would bind the Crown in all its capacities under subsection (1). Therefore, the commonwealth could potentially be bound.

Further, section 23 of the Dangerous Substances Act 1979 provides regulations relating to a large number of activities associated with the transport of dangerous goods, including a determination by a competent authority appointed by the minister under section 5(1)(a) of the act that certain goods are too dangerous to be transported or to be transported along certain routes. I believe that there is provision under the Dangerous Substances Act in respect of that. It could be argued that a competent authority, under the Dangerous Substances Act, could, under section 23, deem material intended for the commonwealth waste repository to be too dangerous to be transported or that it should not be transported along certain routes. Its transport along declared routes would then be an offence under section 42(1). This would potentially extend to bind activities by the commonwealth and its authorities under section 3.

The effectiveness of the state legislation would depend upon an interpretation of section 109 of the constitution and whether the commonwealth has intended to cover the field or has legislated on this topic. In that regard, the government would need to look at the Australian Radiation Protection and Nuclear Safety Act (the ARPANS act) which makes it an offence for a person to deal with a controlled material unless licensed under section 33(1) of that act. My understanding is that there is an argument that, if regulations are passed under the Dangerous Substances Act or the Road Traffic Act, there is certainly an argument that the state legislation would not necessarily be invalid under section 109 of the constitution. It is my belief that there is a live argument that the state government could pursue in this regard. It is an issue of great public importance and I believe it ought to be explored further by the government and I believe that the minister, the Hon. Mr Hill, will be very amenable to such an argument.

There could be an argument that, if the commonwealth specifically legislates on this topic, the state legislation will be rendered invalid by the operation of section 109 of the constitution. But, my understanding is that there is a real argument whether in its current form that legislation covers the field in order for it to effectively render the state legislation invalid. If the commonwealth seeks to cover the field, that legislation would have to be passed by both houses of federal parliament, and I believe that that legislation would have a rocky ride in the Senate. Even if it is dealt with by regulation, there is a real issue that that regulation could be disallowed by the Senate pursuant to section 48(4) of the Acts Interpretation Act 1901. Therefore, there is real hope of preventing a national nuclear waste repository in this state by virtue of the existing state laws and relying on the goodwill of the Senate to deal with this either by disallowing regulations or by knocking back any federal legislation.

These are issues that I believe the state government ought to explore and examine, and I would be grateful if in the committee stage, if this matter proceeds to the committee stage, the minister would provide comprehensive advice in relation to those issues, because I believe they ought to be more fully explored. There ought to be scope to ensure that every possible avenue under state law is dealt with, explored and invoked in order to prevent a national nuclear waste repository. If that is effective, it would obviate the need for a referendum that would cost millions of dollars.

I also indicate that I will not support a referendum if it is to be held just before or in the middle of a federal election campaign. I agree with some who consider that it would be politically opportunistic and I do not believe that it would have the long-term consequence that it is supposed to have, that is, to prevent a national nuclear waste repository. I believe that there are other options that ought to be considered under state law. I believe there are some very real and live arguments that could be pursued in which the state would have a fighting chance under section 109 of the constitution or, in the absence of that, that we can rely on the goodwill of the Senate to ensure that the interests of South Australians in the context of a national nuclear waste repository, particularly with respect to medium level waste, are protected.

The Hon. T.J. STEPHENS secured the adjournment of the debate.

RECREATIONAL SERVICES (LIMITATION OF LIABILITY) BILL

Adjourned debate on second reading.

(Continued from 19 August. Page 648.)

The Hon. NICK XENOPHON: I indicate that I will support the second reading of this bill. I disclose, so that I do not have to disclose it when we deal with the other bills on the *Notice Paper*, that, as honourable members know, I am a legal practitioner, a member of the Australian Plaintiff Lawyers Association and a member of the Law Society of South Australia. For a number of years in my previous life, I have acted for plaintiffs.

This bill is intended to reduce premiums and to deal with the so-called insurance crisis about which there has been enormous publicity in recent months. In that regard, this bill has to be seen in the context of amendments to the commonwealth Trade Practices Act, which I understand will be dealt with by the federal parliament in the near future.

However, I also understand that the commonwealth government is undertaking a review of liability laws via a committee consisting of four persons, with three from New South Wales and one from Canberra—hardly representative of the rest of the country. My concern is that it is yet another Sydneycentric committee that does not take into account the differences between the states. South Australia, for instance, has a better claim record than other states, particularly New South Wales, especially in relation to public liability matters. I am concerned that in October or November we will be dealing with further amendments in the context of laws that will affect the rights of plaintiffs. That may not have much impact on premiums in the context of the federal government review so, in that respect, I am concerned that this would be seen only as a stop gap measure.

The opposition's spokesperson the Hon. Robert Lawson, in his contribution yesterday, referred to the fact that an

amendment will be moved that would make the codes disallowable. The key component of this bill is to have various codes of practice that would, in a sense, be a template on liability issues. There is a lot of merit in the opposition's proposed amendment and I look forward to seeing that. In the context of public liability premiums, there are some documents that I will table in due course, but first I will refer to them. One document is a report from Cumpston Sarjeant Pty Ltd, actuaries, dated 14 May 2002 and addressed to Rob Davis, President of the Australian Plaintiff Lawyers Association (APLA). My understanding is that all these documents can be found on the APLA web site, and I commend the web site to all members for an alternative view of the so-called public liability crisis.

Cumpston Sarjeant is an actuarial firm that prepares evidence for both plaintiff and defendant lawyers in personal injury cases, so it acts for both sides of the fence. Cumpston Sarjeant makes the point that premiums have dropped from about 0.2 per cent of gross domestic product in 1987-88 to about 0.15 per cent in 2000-01 but that claim payments have grown long term as a proportion of GDP, increasing in the past 12 years about 5 per cent faster than GDP. Insurer profits averaged about 18 per cent over the 20 years to 1996-97, and their substantial losses in the four years to 2000-01 may reflect a more pessimistic view of outstanding claims as well as premium cutting by HIH. Further, the projections by Cumpston Sarjeant suggest that insurers will make a loss of about 4 per cent in 2001-02 and a profit of about 17 per cent in 2002-03 without any changes to legislation.

Cumpston Sarjeant says that the retrospective changes proposed in the New South Wales legislation may result in windfall gains to insurers of about $100 million to $150 million. Cumpston Sarjeant, in its very objective way, makes the point that the above estimates show that public liability premiums climbed sharply from about 0.08 per cent of GDP in 1977-78 to almost 0.2 per cent of GDP in 1987-88 but since that time there has been a tapering down. Claim payments have increased from about 0.03 per cent of GDP in 1977-78 to about 0.1 per cent in 2000-01; a trend line in the first 12 years has shown a growth rate of about 9.4 per cent, and in the past 12 years the growth rate has been about 4.6 per cent; and it expects that claim payments will continue to grow.

Richard Cumpston, the author of that report, made the following point:

> Please give the whole of this document to any third party as parts may be misleading in isolation.

In fairness to that firm of actuaries, I seek leave to table that report and the appendices thereto.

Leave granted.

The Hon. NICK XENOPHON: The Australian Plaintiff Lawyers Association makes a number of points in its public position paper written by Rob Davis, the National President. Of the insurance industry's campaigning for legislative restrictions on the right to compensation for injury, he writes that it claims that the amount paid in claims now exceeds premium income. This is portrayed as a new development, a trend that must be stopped or reversed before the costs of premiums will again fall. Rob Davis makes the point that a lot of the insurance companies' income comes from investment income and that the downturn in the share market has affected the insurance industry. Of course, the collapse of HIH and the cost cutting that went on when HIH was still trading indicates that there were pressures and that the market, in a sense, was in some respects artificial because of the HIH cost cutting.

Mr Davis makes the point that in 1998 the Australian Prudential Regulation Authority (APRA) foreshadowed that an eventual downturn in the investment market would produce upward pressure on premiums. That of course is what has occurred, but in terms of the overall trend line it needs to be seen in the context of remarks made by Cumpston Sarjeant. The APLA report goes on to say that the collapse of HIH and the carve-up of its market share has engendered a reluctance to renew riskier policies, and that is true.

My concern is that the insurance industry is escaping appropriate scrutiny in terms of dealing with these issues. It is appropriate that all the significant players in this—the plaintiffs, their lawyers, the insurance companies and their lawyers—ought to be subject to scrutiny in terms of the way the claims are managed, but the information provided by the actuaries in the position paper of APLA indicates that there is certainly a case to answer on the part of the insurance industry.

In relation to this bill, I am concerned that there is no guarantee on the part of the insurance industry that premiums will be capped or, at the very least, will not increase, that there will not be any significant reduction. We have a position where all personal injuries claims in relation to public liability will now be subject to a Wrongs Act-type scale, which in itself is being amended and which I will discuss shortly in the context of another bill. For smaller claims that may have been worth $20 000 under common law principles, I believe that would mean an award of damages of $4 000 or so for pain and suffering. That tapers off in terms of more significant claims, but there will be a huge windfall for insurers in terms of the payouts that will be made in the context of those legislative amendments.

The government has been very clever in the way it has dealt with this by introducing a modified Wrongs Act scale that cuts down benefits for those who are less seriously injured in terms of existing Motor Vehicles Act claims, and ratcheting it up for those more seriously injured is something that is closer to common law damages. The government has been very clever in the way it has done that, and I say that as a compliment, in the sense that if the government took the approach of New South Wales and other jurisdictions, where there is a significant threshold of $20 000 or $50 000 in damages, that could be in some respects counterproductive and would not necessarily lead to significant savings. There will be significant savings in this, but the question has to be asked: will those savings be passed on to consumers?

That is why it is absolutely imperative that this government makes representations to Professor Fels and the ACCC to ensure that the ACCC keeps an eagle eye on the insurance industry, to make sure that it will not make a windfall profit, that there will be benefits in terms of consumers paying premiums, because it seems to me grossly unfair if the insurance industry does not deliver benefits to premiums and if those who are injured, particularly seriously injured, end up getting their benefits slashed, and we have a position where it is very much a one way street for insurers.

I do acknowledge the concern of various community organisations such as horse riding clubs, pony clubs, and other recreational enterprises, both voluntary and commercial. I believe that some insurers have not behaved as scrupulously as they could have, in the sense that some insurers have been quoting such unrealistic premiums basically to scare people

away from the market. That is a legitimate issue that needs to be raised in the context of this debate.

I propose to raise a number of provisions in the legislation in the committee stage. I have some concern about both the wording of some clauses relating to liability and the blanket reduction in damages. I am concerned about how that will work and whether it would lead to unintended consequences. This package could have been much worse, given the approach of the insurance industry in relation to this, but I urge the government to ensure that the insurance industry is accountable in the context of these changes. It will lead to quite a windfall. I believe the state government has a very positive role to play to ensure that all those community organisations that have been left in the lurch with insurance premiums do receive the benefits they are supposed to receive. In that regard, I endorse the remarks of the Hon. Robert Lawson who expressed concerns about whether it would lead to benefits. Mention has been made of studies of so-called tort law reform in the United States, where there was very little benefit to consumers but a huge benefit to insurers.

I seek leave to table two papers from the Australian Plaintiff Lawyers Association, one headed 'Increasing insurance premiums', which sets out a number of factors in relation to the insurance market and whether tort reform has an impact on insurance premiums, and the other a document from APLA to which I referred and which is entitled 'Hard facts about claims, costs and premiums'.

Leave granted.

The Hon. G.E. GAGO secured the adjournment of the debate.

STATUTES AMENDMENT (STRUCTURED SETTLEMENTS) BILL

Adjourned debate on second reading.

(Continued from 19 August. Page 649.)

The Hon. NICK XENOPHON: I express my gratitude to both government and opposition members for accommodating my being able to speak to these bills before dinner. I support this bill. By way of disclosure, I should indicate my law firm was involved in a structured settlement case with the state government some seven or eight years ago. It was a very unfortunate case involving a person with a very serious injury in which the Crown was found to be liable for damages. That was a case which was dealt with by way of structured settlement. I understand it had to go to cabinet for approval because it was the first case of its type, according to the information I obtained from the Crown.

I have some familiarity with structured settlements. In that case the family was pleased with the level of care and the nature of the settlement. I believe it was a very satisfactory solution for all involved. Unfortunately, the plaintiff in that case passed away a number of years ago, but in the time that she was alive there was no complaint from the family. They felt the structured settlement allowed for her accommodation to be altered to enable around-the-clock care, and it was a just solution to quite awful injuries this woman sustained.

I support this bill. I support the remarks of the Hon. Robert Lawson who indicated that some people may be reluctant to engage in a structured settlement with a private insurer, given the collapse of HIH. Maybe confidence will be restored with stricter regulation and greater prudential requirements, but I imagine structured settlements would be more attractive for those dealing with the Motor Accident Commission or the Crown, either at state or federal level, in terms of a compensation claim. I do not believe it should be compulsory, and this bill makes it clear that structured settlements are not compulsory. I believe there is considerable merit in this. My question to the government in the committee stage will be: will the minister undertake to provide feedback in terms of the number of structured settlements over, say, a 12-month period and the nature of those settlements, wherever possible, so we can get some measure of the effectiveness of this particular amendment?

I believe it is overdue and, obviously, it has to be seen in the context of the commonwealth's finally coming to the party in relation to structured settlements. For those who have been catastrophically injured, particularly infants who will need around-the-clock care for the rest of their lives, a structured settlement provides a degree of certainty, particularly when dealing with a statutory insurer or an insurer backed by the state. I support this bill and look forward to its passage.

The Hon. G.E. GAGO secured the adjournment of the debate.

WRONGS (LIABILITY AND DAMAGES FOR PERSONAL INJURY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 August. Page 651.)

The Hon. NICK XENOPHON: I support this bill. I believe that what the government has done, in terms of rejigging the Wrongs Act scale, has been clever. I believe that it will lead to significant savings for the scheme. Plaintiffs will miss out at the lower end of the scale, but those who are seriously injured will receive greater benefits. It is my view that there should be fewer injuries, whether that be on the road, in the workplace, or at playgrounds or leisure parks. I believe it does involve a community approach to deal with that and to ensure that we have as few injuries as possible. When someone is injured they ought to receive fair compensation. Whether this will lead to a premium reduction or to capped premiums is something about which I am not so certain, but certainly it will take pressure off the scheme.

I do have some concerns—and this applies to all three bills—about tinkering with or slashing common law benefits. I believe that the common law principles have served us well, but it seems that there has been a march amongst governments around the commonwealth to amend common law rights. That is something that does concern me. There are two aspects which I wish to raise and about which I am concerned. The first relates to the territorial application of the bill, which is an issue I raised previously by question to the Treasurer in relation to section 24O. For instance, a Californian neurosurgeon and his stockbroker wife may be visiting South Australia. They could be injured in a motor vehicle accident in the outback. They both could suffer catastrophic injuries or there could be a cause of action against one of the parties. It may be a single vehicle accident. My understanding is that the Motor Accident Commission scheme could be exposed to a very significant claim for damages against it if the matter is dealt with in a Californian court. It could be in the tens of millions of dollars, and it

could have the potential to damage our scheme. That is something which concerns me.

I understand that some commonwealth cooperation may be needed to deal with it. The issue of territorial application, I think, goes some way to dealing with that but, in committee, I will be asking whether that will deal with that particular issue. I do not have reservations about the expression of regret. I think that it is a good provision. I note that the Hon. Robert Lawson has spoken about claims being reduced and he spoke about the Delta Airlines crash. I think it is important for people to have an opportunity to say sorry and, if that avoids litigation, that is a good thing.

I am concerned about the transitional provisions, and clause 6 of the bill gives an example with respect to those who were exposed to asbestos. The example given, I believe, is a sincere attempt by the government to ameliorate the concerns of those who deal with asbestos victims and with the Asbestos Victims Association. I should disclose that I am a patron of that association, together with the Premier (Hon. Mike Rann) and a number of other people, including the Mayor of Salisbury. I have spoken to the Asbestos Victims Association's lawyers and they are still concerned about this particular amendment.

I foreshadow that I will be speaking to parliamentary counsel with a view to my moving an amendment that will bring South Australia in line with New South Wales legislation and foreshadowed legislation in Queensland, where it is enshrined in legislation to make it absolutely clear that asbestos victims will not be caught by this legislation. The concern relates to the person with mesothelioma who goes to court and who has, perhaps, only weeks, sometimes days, to live and whether these transitional provisions would apply to that asbestos victim in a terminal or critical condition facing litigation.

As I understand it, the Asbestos Victims Association acknowledges the intentions of the government to ensure that asbestos victims are not caught by this new legislation, but why not go that small step further and make it absolutely clear that asbestos victims are not caught by it? Why not bring this bill in line with New South Wales legislation, and we know what a harsh view the Premier of New South Wales (Hon. Mr Carr) holds with respect to the legal provisions in terms of pushing through these so-called tort reforms? Even the Carr government was prepared to acknowledge a special case for asbestos victims.

In such cases premiums have already been paid where exposure to asbestos was 20, 30 and 40 years ago. In all the circumstances, I believe there are strong policy reasons for ensuring that it is made unambiguously clear that asbestos victims will not be caught by this legislation. Those who have dealt with asbestos victims and who have known people who have had to face litigation in the dying weeks of their life would believe that not including that clause would cause unnecessary added stress. I urge the government to consider any amendment along those lines.

Notwithstanding the government's sincere intentions not to cover asbestos victims, I am concerned from a statutory interpretation point of view. Simply listing an example in the bill is something that I did raise with the minister's office. I thought that it would deal with the issue, but the Asbestos Victims Association still has concerns and, for that reason, I will be moving amendments during committee to deal with that issue. I hope that members on both sides of the chamber will be sympathetic given that the amendments will go no further than what has already been done in New South Wales and what has been foreshadowed in the Queensland parliament.

The Hon. G.E. GAGO secured the adjournment of the debate.

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 19 August. Page 641.)

The Hon. R.I. LUCAS (Leader of the Opposition): On behalf of members in the Legislative Council, I support the second reading of the Appropriation Bill. As has been the practice, this debate gives some opportunity for members to raise a variety of issues, and a number of my colleagues will seek to do so. I intend to address the broad structure of the Appropriation Bill debate—the budget debate—and to outline a series of questions for the minister for reference to the Treasurer and to other ministers, to assist our consideration, and potentially to reduce the time we might need to spend in committee.

From the Liberal Party's viewpoint, and we think increasingly from the community's viewpoint, this has been a budget of broken promises, dishonesty and arrogance. It certainly has been a budget that is anti jobs. I intend to address some comments in relation to the projections in the budget with respect to cuts in job growth and the growth of the state's economy—a worrying series of projections from the new government. Thirdly, it is a budget of wrong priorities; it is a budget that sees reductions in education spending in real terms, yet this government buys Reserve Bank buildings for some $20 million and puts aside some $6 million for a referendum on the issue of nuclear waste.

They are the priorities for this government rather than spending on what it claims to be the priority areas. This budget is about broken promises, dishonesty and arrogance. I will address those issues first. Secondly, I will address the anti jobs focus of the budget. Thirdly, I will address the wrong priorities of this government and, in particular, this ministry. When one looks at the broken promises in this budget one can understand that I could spend the whole of my contribution looking at only those, but I want to summarise a half a dozen of the key broken promises.

First, I want to address the more than $200 million increases in taxes over four years, with increases in stamp duty, conveyances, rental agreements and gaming taxation. A clear and explicit promise was made by Mr Rann and Mr Foley in opposition that there would be no increase in taxes, no introduction of new taxes and no increase in government charges. Of course, prior to the budget there had been a significant increase in announced government charges: $120 million minimum over four years in government charges. I have addressed this previously. The now opposition when in government made a specific commitment in relation to taxes but it made no commitment in relation to government charges. We accepted what has been the convention for many years that governments need to continue to recoup additional revenue from increases in charges to help meet the cost of delivery of services. The Labor Party made a very popular promise—one that obviously attracted a number of people to vote for it—when it made a specific additional commitment that it would not increase government charges at all during its term of government. It was quite an explicit commitment not to increase—

The Hon. T.G. Cameron: No increase above inflation.

The Hon. R.I. LUCAS: No, the specific commitment from Mike Rann, in both the costings document and in a range of policy documents, was no increases in taxes, no increases in charges, no new taxes and no new charges. All of those promises—

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: As I said, and as the Hon. Diana Laidlaw says, it was not qualified. All of those promises have been broken. We have seen increases in taxes, of course, with respect to stamp duty. We have seen a new tax in terms of the introduction of a new rental stamp duty. We see a new tax about to be introduced called a hotels' transfer tax, but we have not yet seen all the details of that. That was phase 2 of the government's budget because the Treasurer had to make changes to his original package of proposals in relation to gaming taxes. As I said, we have also seen other increases in government charges and taxes.

The Hon. T.G. Cameron: Property transfers.

The Hon. R.I. LUCAS: And property transfers. Those are the sorts of things that have been increasingly highlighted as people become aware of the individual details. Hundreds and hundreds of individual government charges have been increased, despite a promise—and we think it was a foolish promise made by the Labor party—that that would not occur.

The Hon. T.G. Cameron: A bit like the one Dean Brown made wasn't it?

The Hon. R.I. LUCAS: I don't think he ever said anything about charges. If there were promises made by parties in the past—Labor and Liberal—they have tended to relate to taxation. Most parties have realised that charges do go up broadly in line with inflation, and there is an established formula which has been used for the past two or three years. But, it was an enormously popular promise that the Hon. Mr Rann made on behalf of the Labor Party. It promised that these hundreds and hundreds of charges would not be increased. People were told that in their leaflets and in correspondence from Labor party candidates and members. That explicit promise has been comprehensively broken in this budget and, I am sure, will continue to be broken in the remaining budgets of the current parliamentary term.

There was also the broken promise in relation to increases in the emergency services levy. We saw a headline which said 'No increase in the emergency services levy'—a headline too clever by half because, with the increase in property values, the levy rate can stay the same and the revenue can be increased. Some $3 500 000 extra revenue will be collected from the community. The average increase in the emergency services levy is $3 to $4. During the committee stage I will seek detail on the range of increases in the emergency services levy, depending on the size of the property value increase for individual households. We also saw the massive and heartless—some might say—increases in compulsory third party premiums by this callous, cold-hearted and cruel new government.

The Hon. J.F. Stefani interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Stefani points out the emergency services levy increases as well. In relation to public sector numbers, the Labor Party, when in opposition, held itself out to be the champion of the public sector. In this first budget it has announced a reduction of some 600 public sector positions. Again, a clear and explicit broken promise. In the lead up to the election campaign, the now Treasurer was asked in a radio interview whether he could guarantee that only what he termed 'fat-cat numbers' would be reduced: they were talking about the reduction of some 50 fat-cats in the public sector. He was challenged by ABC Radio to clarify whether that would extend to non-executive positions. He made an explicit promise on ABC Radio that junior public servants, or non-executive public servants, had nothing to fear in terms of job losses from a Labor government.

The Hon. T.G. Cameron: PSA members believed that.

The Hon. R.I. LUCAS: PSA members believed that, or at least their union leaders believed that and, of course, urged their membership to support a Labor Party during the last election campaign. So, again, it was an explicit commitment that was broken in the budget with the reduction of some 600 public servants. And what has been the Labor Party's response to the criticism that it has broken a particular promise? It has said that these are not really cuts but voluntary separation packages. For the past eight years, the then Liberal government—and we have not been backward in our approach to the public sector—believed that we needed a significant reduction in public sector numbers during that eight-year period, and we followed that through. We were not hypocritical about it.

Voluntary separation packages were offered. No-one was sacked and public sector members accepted those voluntary separation packages in their thousands. During that period, the Labor Party, hypocritically, attacked the Liberal government of the time saying that we were sacking people and cutting public sector job numbers. Now we have this Labor government—these Labor members—defending the cuts in public sector numbers by saying that they are not really cuts—

The Hon. P. Holloway: Are you attacking us?

The Hon. R.I. LUCAS: No, we are attacking your hypocrisy, and it is pretty easy to do that. There are plenty of examples in this budget.

The Hon. T.G. Cameron: Well you've got two faces to hit.

The Hon. R.I. LUCAS: There are two faces, so it is a big target. We are attacking the Labor Party's hypocrisy on these issues: what you said in opposition and what you have now done in government. And this from a government which was promising budget honesty, integrity, a new era of accountability and openness. What we have seen in this first budget and in these first months has been the grossest forms of dishonesty; the grossest forms of deceit; and the grossest forms of arrogance that I have ever seen in a new government, and in some of its ministers, and I will return to that later.

At the same time, the pledge card detailed promises of big increases in education spending. Just to remind members, the pledge card from the Hon. Mike Rann promised better schools with more teachers and better hospitals with more beds—amongst a series of other commitments redirecting millions of dollars to hospitals and schools.

This budget actually cuts education spending in real terms by $34 million this year. Compared to what was actually spent last year, what is promised in this budget is actually a $34 million reduction in real terms. There was a promise of a huge boost in health spending. In real terms, this budget has an increase of less than 1 per cent in health spending, which has been funded mainly by a rundown in cash reserves of almost $20 million—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Health and education were going to be their priorities. They were their claimed priorities, but those members of the community who believed that—who

believed the pledge card—have been sold a pup, well and truly. We will look in detail at some of these claims of a supposed increase in health and education spending during the committee stage.

We have also seen, in terms of specific additional health commitments, that this budget and the forward estimates do not meet those particular commitments that were made in the Labor Party costings document that was released during the election campaign. We have also seen an increase in the state's net debt and unfunded superannuation liabilities in this first budget. I hasten to add, in a spirit of fairness for which I am sure the Liberal opposition is renowned, that at least some of the increase in unfunded superannuation was as a result of the difficult investment market for Funds SA. I am sure that anyone who has been following the performance of managed funds over the past 12 months would know that the market within which Funds SA was having to operate was difficult, as it has been for other funds management companies and organisations.

They are just some of the broken promises that have been implemented in this budget and in the budget related statements. As I said, there are many others when one comes back to the specifics, and other members will refer to those, and other members in another place have referred to some of those as well. Liberal members and some commentators—admittedly few at this stage—have been astonished by the Labor government's arrogance in terms of how it has responded to the claim that it is a government of broken promises.

I highlight a few of the examples from some of the ministers, in particular, the new Treasurer. *Hansard* records on 15 July, during parliamentary debate, the Treasurer's response on behalf of the government in relation to the morality of broken promises—this is the Labor Party's Treasurer defending broken promises. He said:

> You do not have the moral fibre to go back on your promise. I have, because I have done the right thing in taxing the industry.

The Labor Party defence is to attack the Liberal Party for not having the moral fibre to break a promise. This is a Labor Treasurer, representing Labor members, in essence applauding the fact that he had the courage to break a promise on a morality basis (that is, he had the moral fibre to break a promise) and attacking Rob Kerin because he did not have the moral fibre to break a promise. He attacked Rob Kerin for being an honest politician and because he was prepared to abide by the promises and commitments he had made during an election campaign. To have a treasurer of this government goading, taunting and provoking the opposition leader (Rob Kerin) because he happens to be honest and believes that, if he makes a commitment, he should keep it, and saying, 'You don't have the moral fibre to go back on your promise: I have' as a defence is unacceptable, and it will be shown to be unacceptable over the coming months and years.

It gets even worse in relation to this government's defence of breaking its promises. During the estimates committees (page 63 of *Hansard*), the Treasurer was again challenged about the issue of honesty and integrity. Again, the Treasurer's response was:

> When it comes to good public policy, I will not be influenced by an election donation or by my personal regard and friendship for people in the hotel industry.

That is to be applauded; no-one would suggest otherwise. So, he will not be influenced by those issues. The member for Morialta then interjected and said:

> What about honesty?

The Treasurer replied, 'Or honesty.' He said:

> When it comes to good public policy, I will not be influenced by honesty.

When a minister of the Crown, in defending what he says is good public policy, says that one of the criteria will not be honesty what sort of government do you have?

The Hon. J.F. Stefani: Is he saying that you can be dishonest?

The Hon. R.I. LUCAS: That is what the Treasurer is arguing. He is saying that, in the interests of good public policy, he will not be influenced by honesty. He will not be influenced by election donations. Good on him, we all applaud him for that. He will not be influenced, when making policy, by his personal friendships with people. Good on him, we share that view. But then he says that, when making public policy, this government will not be influenced by the notion of honesty. What sort of a message—

An honourable member: What does he mean?

The Hon. R.I. LUCAS: I think it is quite clear what the Treasurer means. Speaking on behalf of the government, he as Treasurer is not worried about honesty in relation to public policy. He is not interested. I will go back to the Treasurer's original taunt to the opposition: 'You do not have the moral fibre to break your promises: I do.' That is the taunt, and that is the message in this budget from this government's Treasurer, its ministers and members. If the Treasurer is not bound by honesty in terms of good public policy, and if he wants to taunt the opposition leader because he does not have the moral fibre to break his promises (but he, the Treasurer, does), what sort of a party is it? What sort of leadership is it of a new government which was supposedly going to lead a new era of honesty, openness, accountability and integrity in South Australia? The opposition never believed it, because we knew the members of the Labor Party and its leadership. Increasingly, with these statements, members of the media and, indeed, others will see it as well.

The third example in relation to this new government's arrogance, particularly some of its ministers, occurred during an interview on Channel 10 (which members may or may not have seen) where a backflip on gaming taxation was announced by the government. The Treasurer was under a fair bit of pressure from the media. On Channel 10 the question was put to him: 'Why have you introduced this new transfer tax?' There may well have been a lead-in to it—I am not sure—in relation to broken promises. What was the Treasurer's response? 'Because I can'. That is why he introduced a new transfer tax—'because I can', not 'because we can', not 'because the government can' but 'because I can.' 'Why did you introduce this new tax?' 'Because I can.'

I am told that the Treasurer spoke at a Property Council breakfast meeting where he was challenged about why the government increased stamp duty on property conveyances. His response that morning was, 'Because I can.' It is that sort of arrogance, which is already being talked about in the community. One wag in the Labor Party told me that in the government garage they are looking at having two cars for the Treasurer: one for Mr Foley and one to carry his ego.

The Hon. T.G. Roberts: Name him.

The Hon. R.I. LUCAS: Name him? I could name a few. Even Terry Plane, the most renowned Labor Party apologist in South Australian journalism (now or in the past), hinted darkly that there were a couple of Labor ministers whose egos were so big that already the tongues were wagging about their

arrogance. We have seen that one of those ministers is the Treasurer in terms of this particular—

The Hon. R.K. Sneath: Who's the other one?

The Hon. R.I. LUCAS: There are a number of others. This is from Terry Plane, a Labor Party apologist. My message to this government is that there are always difficult decisions that have to be taken in relation to budgets but when you go down the path of defending your budget on the basis that good public policy does not have to rely on honesty, when you go down the path of defending broken promises by goading an honest opposition leader by saying, 'You don't have the moral fibre to break your promises, we do', then you are on a slippery path to oblivion. That is not the sort of attitude that will be supported by the community when next we go to the polls.

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: Let's wait and see over the long haul. I have been around this place a little longer than the Hon. Mr Sneath. I do not rely on the polls for one particular day or week, I can assure him.

The second broad area that I want to talk about is in relation to the anti-jobs focus of the budget. It is in the fine print and it has not gained much publicity, and I think that is a fair indication of the lack of interest of the local media in terms of covering the serious issues in this particular budget. When one looks at table 9.1 at the back of the budget papers, one gets an indication of what the Treasury and the government really think about the impact of this budget on jobs and the economy of South Australia. One remembers the publicity. I will not waste time by going through all of it, but at the time of the budget the Premier and the Treasurer said, 'This is a jobs related budget, a jobs focus; we will get the foundations right to try to get jobs growth up and going in South Australia.' No-one at that time referred to table 9.1 at the back of the budget papers.

This table shows that for this financial year (2002-03) Treasury is forecasting a 25 per cent decline in employment growth compared to the last year under a Liberal government. It is predicting a 26.7 per cent decline in gross state product growth (which is the growth of the state's economy). It is predicting a 38.9 per cent decline in state final demand (which is another economic measure for growth in the state's economy). That is a decline over the 12 months of 25 per cent, 26.7 per cent and 38.9 per cent in relation to those key economic indicators in this budget. Yet at the time we were told by the government that this was a jobs related budget and that these issues were important to see jobs growth in South Australia.

As we have reported before, when the Liberal government was first elected, we took unemployment from a peak of 12 per cent under Mike Rann, when he was the last minister for unemployment in South Australia in 1993, to just over 6 per cent at the time of the change in government—almost a halving of the state's unemployment rate. South Australia's unemployment rate plummeted, and we are now significantly below Queensland's unemployment rate. At the time of Labor's last leaving office, Queensland's unemployment rate was significantly less than that of South Australia. That was a radical turnaround in the fortunes of both those states over that eight year period.

Here we are in the first year of a Labor government, and we are predicting a very significant decline in jobs. Why is that? Let me very quickly go through it. Some 600 public sector jobs are to go. There is to be a cut of over 100 in public sector traineeships—and, again, Labor members have attacked Liberal governments over the past eight years about the reduction in the total number of traineeships. Clearly, there will be a significant impact on the hospitality industry—the larger estimates have been in the region of 1 000 jobs. The increase in stamp duty on property transfers will further help to dampen housing construction, together with other issues, such as the phased reduction of the First Home Owners Grant from $14 000 to $7 000, which has occurred as a result of federal government policy.

Another area in respect of which we have not seen much publicity is the phased abolition of the very successful Regional Development Infrastructure Fund—something the Hon. Terry Roberts was broadly asked about before the budget was released. Post the budget, we will be looking to see, on behalf of regional communities, what he intends to replace that very successful Regional Development Infrastructure Fund with. In the past, there has been huge growth in regional areas in industries such as wineries development, aquaculture and abattoirs development. In very large part, they have been assisted in the difficult task of getting up and running through the Regional Development Infrastructure Fund.

This government is to phase out the fund and has said, 'Well, they will have to be considered by all the other proposals from across the state.' I assure the Hon. Terry Roberts that this is a recipe for a significant reduction in the growth in jobs in regional communities, and that a number of the projects that were successful in getting off the ground in the past four years because of the Regional Development Infrastructure Fund will not get off the ground over the coming four years if the government continues with that policy. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 6 to 7.45 p.m.]

AGRICULTURAL AND VETERINARY PRODUCTS (CONTROL OF USE) BILL

The House of Assembly agreed to the bill with the amendments indicated by the following schedule, to which amendments the House of Assembly desired the concurrence of the Legislative Council:

Clause 3, page 7, lines 1 to 4—Leave out the definition of 'withholding period' and insert:

'withholding period', in relation to a trade product, means the minimum period that needs to elapse between use of an agricultural chemical product or a veterinary product and a particular activity in order to ensure that the agricultural chemical or veterinary product's residues in the trade product fall to or below, or will not exceed, the maximum limit that the NRA permits (see the MRL Standard).

Clause 9, page 11, lines 3 to 5—Leave out all words in these lines after 'guilty of an offence if' in line 3 and insert:

(a) in the case of a registered agricultural chemical product used pursuant to a permit-a prescribed instruction setting out a withholding period for a trade product in the permit is contravened; or

(b) in any other case—a prescribed instruction setting out a withholding period for a trade product displayed on the approved label for containers for the product is contravened.

Clause 9, page 11, line 7—Leave out subsection (2).

Clause 9, page 11, line 13—After 'chemical product' insert:

or in a permit pursuant to which the registered agricultural chemical product is used

Clause 16, page 14, line 7—After 'Withholding period' insert:

for the animal or a product derived from the animal.

STAMP DUTIES (RENTAL BUSINESS AND CONVEYANCE RATES) AMENDMENT BILL

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

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): 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.

South Australia is one of only two jurisdictions not to tax commercial equipment hire using hire purchase arrangements; only the hire of goods through lease finance is currently subject to tax. All other States and Territories applying rental duty apart from Western Australia have broadened their rental duty base to include the hire of goods under commercial hire purchase arrangements. The Western Australian Review of State Business Taxes (released in June 2002) includes a recommendation that the rental duty base in that State also be broadened to include hire purchase arrangements.

The Australian Finance Conference and the Australian Equipment Lessors Association have lobbied for many years for the rental duty base to be broadened to remove stamp duty incentives favouring commercial hire purchase funding arrangements for equipment hire in preference to lease finance arrangements.

The industry has also lobbied for a rate reduction in conjunction with base broadening. The State's finances do not permit a rate reduction but the Government will provide more limited tax relief by moving to a GST exclusive tax base for rental duty and increasing the monthly rental threshold above which stamp duty applies from $2 000 to $6 000.

With the introduction of the GST, all States and Territories made the decision to apply stamp duty to GST inclusive values. In the case of insurance and rental duty, there was an issue of cascading tax because GST was applied to stamp duty inclusive values while stamp duty was to be applied to GST inclusive values. In the case of insurance, GST law was amended to exclude stamp duty from the GST base. This was not done for rental duty. Most States and Territories, except South Australia and Western Australia, adopted a GST exclusive rental duty base.

In the interests of uniformity with other States and Territories and for administrative simplicity, the Government has decided to amend the rental duty base to exclude GST.

Rental firms that do not engage in equipment hire using commercial hire purchase will be better off under the new rental duty arrangements. This includes rental firms engaged solely in retail goods hire such as household appliances and equipment, non-fleet car rentals and houseboat hire.

The proposed changes to rental duty arrangements will take effect from 1 January 2003. The delayed introduction will give the industry sufficient lead time to adjust administrative systems to accommodate the new arrangements.

The rental duty amendments are estimated to raise additional revenue of $7.5 million in a full year.

Stamp duty rates applied to property conveyances were last increased in 1999-2000. To assist in meeting the Government's fiscal targets, marginal rates of duty applying to conveyance value in excess of $200 000 will be increased as follows:

- dutiable value between $200 000 and $250 000 will be taxed at a rate of 4.25 per cent instead of 4.0 per cent;
- dutiable value between $250 000 and $300 000 will be taxed at a rate of 4.75 per cent instead of 4.0 per cent;
- dutiable value between $300 000 and $500 000 will be taxed at a rate of 5.0 per cent instead of 4.0 per cent;
- dutiable value between $500 000 and $1 million will be taxed at a rate of 5.5 per cent instead of 4.5 per cent;
- dutiable value in excess of $1 million will be taxed at a rate of 5.5 per cent instead of 5.0 per cent.

The new rates will apply to documents lodged for stamping on or after the date of assent of legislative amendments to the *Stamp Duties Act, 1923*. Documents lodged on or after this date that relate to contracts entered into on or before Budget day will, however, be assessed using existing duty rates rather than the new rates.

The revised tax structure is estimated to raise an additional $14.0 million in a full year.

The increased rates will apply to both residential and non-residential property transfers that are valued in excess of $200 000. The additional tax only applies to properties where ownership is being transferred.

For properties of the same value, the level of conveyance duty payable in South Australia will continue to be below that payable in Victoria, except for properties valued below $158 500.

The cost of property is generally higher in the eastern States compared to South Australia. A more accurate measure of relative tax severity is the level of tax payable on properties of similar size, age, location and general amenity.

The level of stamp duty payable on the conveyance of a median priced house in South Australia will not be affected by the proposed tax changes. South Australians pay the third lowest level of stamp duty on median priced house sales. In Melbourne, the median price of house sales in the first three months of 2002 was $316 500 and attracted conveyance duty of $14 650. Adelaide's median price for house sales, in contrast, was $168 500 and would attract conveyance duty of $5 570 at the proposed rates to apply in 2002-03.

I commend the bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that sections 5 and 6 of this measure will come into operation on 1 January 2003 with the remaining provisions to come into operation on the day on which the Act is assented to by the Governor.

Clause 3: Amendment of s. 31B—Interpretation

This clause amends section 31B, which provides definitions of terms used in the portion of the Act falling under the heading "*Rental Business*".

The existing definition of "contractual bailment" is struck out and a new definition substituted. The new definition differs from the existing definition in that it specifies that a "contractual bailment" includes a hire-purchase agreement. This definition also differs in specifying that a contract or agreement providing for the sale of goods incidentally to a lease of, or licence to occupy, or the sale of, land is not included.

This clause also inserts a definition of "hire-purchase agreement". A "hire-purchase agreement" is a contract or agreement for the letting of goods with an option to purchase the goods, or a contract or agreement for the sale of goods by instalments. Excluded from this definition is a contract or agreement under which property in the goods passes on or before delivery of the goods.

Clause 4: Insertion of s. 31C

This clause inserts a new section.

31C. Exemption of hire-purchase agreements

The effect of this proposed section is to exempt hire-purchase agreements made from 1 January 1984 from duty chargeable under the Act in respect of rental business. This exemption reflects the practice that has applied since the abolition of instalment-purchase duty by the *Stamp Duties Amendment Act (No. 2) 1983*. However, this exemption will not apply to hire-purchase agreements made on or after 1 January 2003.

Clause 5: Amendment of s. 31F—Statement to be lodged by person registered or required to be registered

The amendments proposed to this section relate to the amount of duty payable by a person carrying on a rental business, that is, a person registered under section 31E. A registered person is required under section 31F to lodge with the Commissioner a monthly statement detailing the total amount received during the previous month in respect of the person's rental business.

Under the existing provision, the amount of duty payable by the person every month is equal to 1.8 per centum of the amount by which the total amount received, as set out in the statement, exceeds $2 000. The proposed amendment increases this monthly threshold to $6 000.

Currently, under subsection (1a), the amount received by a registered person is taken to include amounts received to reimburse, offset or defray his or her liability to GST on the services provided in and incidental to his or her rental business. The proposed amendment reverses the current position by replacing the existing subsection (1a) with a new subsection that has the effect of excluding such amounts from the amount taken to have been received by a registered person in respect of a rental business.

Under subsection (2), a registered person who has been carrying on a rental business that has received a total amount of less than $24 000 in a period of one year can elect to lodge a single annual

statement instead of a monthly statement as required under subsection (1). A person who makes an election is currently required to pay duty of an amount equal to 1.8 per centum of the amount by which the total amount received in the relevant year exceeds $24 000. The proposed amendment increases the amount, in relation to both the condition that must be satisfied before a person is entitled to make an election and the duty payable after an election has been made, to $72 000.

Under subsection (4), a registered person or the Commissioner can cancel an election if the Commissioner is satisfied that the total amount received by the registered person in a 12 month period exceeds $40 000. The proposed amendment increases this figure to $120 000.

Clause 6: Amendment of s. 31I—Matter not to be included in statement

Section 31I specifies certain amounts that a registered person is not required to include in a statement under section 31F. A person is not required to include an amount in respect of the sale of goods unless the sale relates to an agreement, arrangement or understanding that the buyer may, at a later time, sell the goods back to the seller, or, now, as a result of this proposed amendment, a hire-purchase agreement.

Subsection (1c) provides that a person who receives in excess of $2 000 per month for or in relation to the use of goods under a lease, bailment, licence or other agreement that provides for the person to be responsible for the servicing of the goods may deduct a certain amount from the excess. Consistent with the amendment to section 31F, the proposed amendment to subsection (1c) increases the threshold from $2 000 per month to $6 000 per month.

Clause 7: Amendment of Sched. 2

This clause amends Schedule 2 of the Act by striking out certain passages relating to the rate of duty payable on conveyances and substituting words that have the effect of increasing the amount of duty payable in respect of a conveyance or transfer on sale of property, or a conveyance operating as a voluntary disposition *inter vivos* of property, where the amount by reference to which duty is assessed exceeds $200 000.

Clause 8: Application of amendments

This clause provides that the amendments made by section 7 apply to instruments lodged with the Commissioner for State Taxation on or after the day on which section 7 comes into operation. However, the amendments made by section 7 will not apply to an instrument lodged for stamping after that day if the Commissioner is satisfied that the instrument gives effect to a written agreement entered into on or before 11 July 2002.

The Hon. R.I. LUCAS secured the adjournment of the debate.

STATUTES AMENDMENT (THIRD PARTY BODILY INJURY INSURANCE) BILL

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

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): 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 purpose of this Bill is to amend the *Gas Pipelines Access (South Australia) Act 1997* (the Principal Act) to clarify the time at which the right of appeal arises, expand appeal rights and streamline procedures for the classification of pipelines and make necessary consequential changes.

The Principal Act is the 'lead legislation' that was passed pursuant to the signing of the Council of Australian Governments (CoAG) Natural Gas Pipelines Access Agreement (the Agreement) by Ministers of all Australian jurisdictions on 7 November 1997. Under the Agreement South Australia became the 'lead legislator.' Other jurisdictions (except Western Australia) agreed to apply the uniform provisions of the Principal Act (Schedule 1, usually referred to as the 'Law' and Schedule 2, which is the 'Code') by means of application legislation. Western Australia applies only the Code, but with respect to the 'Law' agreed to enact legislation having an 'essentially identical effect.'

Under clause 6.1 of the Agreement a Party to the Agreement must not amend its Access Legislation (of which Schedule 1 is a part) unless the amendments have been approved in writing by all the Ministers of the other Parties.

In late 2001 Ministers of all Australian jurisdictions unanimously approved the Bill to amend Schedule 1 of the Principal Act. As lead legislator, South Australia is now obliged to introduce the Bill into the South Australian Parliament.

At the same time that they approved the Bill, Ministers also approved amendments to the Code, and minor amendments to the uniform Regulations. The most important amendment to the Code is to provide for a wider range of methods ('Approved Reference Tariff Variation Methods') in accordance with which Reference Tariffs may vary within an Access Arrangement period.

The Bill seeks to correct an anomaly whereby, at present, the Code Registrar is required to record information about recommendations or decisions on the classification of pipelines, but there is no corresponding obligation on the NCC and the relevant Ministers, who make the recommendations or decisions, to notify the Code Registrar of the recommendations or decisions.

The Bill also aims to clarify the point at which the right of appeal arises and closes. It is not currently clear when the 14-day appeal period commences. The effect of the proposed amendment is that the right of appeal will remain open until 14 days after the relevant decision is placed on the public register maintained by the Code Registrar. This will provide a clear date from which the time limit can be calculated.

The Bill expands the category of persons able to apply for a review of a decision of a relevant Regulator to include those who made submissions on an Access Arrangement or revisions drafted by the relevant Regulator. At present only those persons who made submissions on an Access Arrangement or submissions submitted by the service provider are able to apply for a review.

The Bill also provides for appeals arising from decisions of a relevant Regulator on the variation of Reference Tariffs, including a decision to disallow a proposed variation of Reference Tariffs during an access arrangement period or to make or substitute its own variation.

It is also proposed to expand the definition of 'prescribed duty' in section 41 of Schedule 1 of the Principal Act to include decisions on the variation of Reference Tariffs under the Code. This will give the Relevant Regulator power to require persons to provide information that may assist in making those decisions.

I commend this Bill to the House.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

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

Clause 3: Amendment of s. 11 of Sched. 1—Classification when Ministers do not agree

The amendment provides that the Code Registrar must be notified of relevant recommendations or decisions by the National Competition Council or Ministers.

Clause 4: Amendment of s. 38 of Sched. 1—Application for review

The amendments fix the time for making an application for review of a decision as 14 days running from the day after the decision is placed on the public register kept by the Code Registrar under the Code.

Clause 5: Amendment of s. 39 of Sched. 1—Limited review of certain decisions of Regulator

The amendment to section 39(1) places a person who makes a submission on a relevant Regulator's draft arrangement or revision in the same position as a person who makes a submission on the service provider's proposed arrangement or revision, *ie*, both are able to apply to the relevant appeals body for a review of the decision of the Regulator on the matter. This is relevant where the service provider has failed to submit an access arrangement or revisions as required by the Code.

The proposed new section 39(1a) provides the service provider with a right to apply for a review of a decision of the relevant Regulator under the Code to disallow a variation proposed by a service provider of a Reference Tariff within an Access Arrangement Period or to make the Regulator's own variation of a Reference Tariff within an Access Arrangement Period.

Consequential amendments are made to the matters that may be considered by the relevant appeals body.

Clause 6: Amendment of s. 41 of Sched. 1—Power to obtain information and documents
Section 41 is amended to enable the relevant Regulator to use the powers to obtain information and documents contained in that section for purposes related to a decision under the Code whether to approve, disallow or make a variation of a Reference Tariff within an Access Arrangement Period.

The Hon. R.I. LUCAS secured the adjournment of the debate.

GAS PIPELINES ACCESS (SOUTH AUSTRALIA) (REVIEWS) AMENDMENT BILL

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

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): 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 purpose of this Bill is to amend the *Gas Pipelines Access (South Australia) Act 1997* (the Principal Act) to clarify the time at which the right of appeal arises, expand appeal rights and streamline procedures for the classification of pipelines and make necessary consequential changes.

The Principal Act is the 'lead legislation' that was passed pursuant to the signing of the Council of Australian Governments (CoAG) Natural Gas Pipelines Access Agreement (the Agreement) by Ministers of all Australian jurisdictions on 7 November 1997. Under the Agreement South Australia became the 'lead legislator.' Other jurisdictions (except Western Australia) agreed to apply the uniform provisions of the Principal Act (Schedule 1, usually referred to as the 'Law' and Schedule 2, which is the 'Code') by means of application legislation. Western Australia applies only the Code, but with respect to the 'Law' agreed to enact legislation having an 'essentially identical effect.'

Under clause 6.1 of the Agreement a Party to the Agreement must not amend its Access Legislation (of which Schedule 1 is a part) unless the amendments have been approved in writing by all the Ministers of the other Parties.

In late 2001 Ministers of all Australian jurisdictions unanimously approved the Bill to amend Schedule 1 of the Principal Act. As lead legislator, South Australia is now obliged to introduce the Bill into the South Australian Parliament.

At the same time that they approved the Bill, Ministers also approved amendments to the Code, and minor amendments to the uniform Regulations. The most important amendment to the Code is to provide for a wider range of methods ('Approved Reference Tariff Variation Methods') in accordance with which Reference Tariffs may vary within an Access Arrangement period.

The Bill seeks to correct an anomaly whereby, at present, the Code Registrar is required to record information about recommendations or decisions on the classification of pipelines, but there is no corresponding obligation on the NCC and the relevant Ministers, who make the recommendations or decisions, to notify the Code Registrar of the recommendations or decisions.

The Bill also aims to clarify the point at which the right of appeal arises and closes. It is not currently clear when the 14-day appeal period commences. The effect of the proposed amendment is that the right of appeal will remain open until 14 days after the relevant decision is placed on the public register maintained by the Code Registrar. This will provide a clear date from which the time limit can be calculated.

The Bill expands the category of persons able to apply for a review of a decision of a relevant Regulator to include those who made submissions on an Access Arrangement or revisions drafted by the relevant Regulator. At present only those persons who made submissions on an Access Arrangement or submissions submitted by the service provider are able to apply for a review.

The Bill also provides for appeals arising from decisions of a relevant Regulator on the variation of Reference Tariffs, including a decision to disallow a proposed variation of Reference Tariffs during an access arrangement period or to make or substitute its own variation.

It is also proposed to expand the definition of 'prescribed duty' in section 41 of Schedule 1 of the Principal Act to include decisions on the variation of Reference Tariffs under the Code. This will give the Relevant Regulator power to require persons to provide information that may assist in making those decisions.

I commend this Bill to the House.

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Clause 4: Amendment of s. 38 of Sched. 1—Application for review
The amendments fix the time for making an application for review of a decision as 14 days running from the day after the decision is placed on the public register kept by the Code Registrar under the Code.

Clause 5: Amendment of s. 39 of Sched. 1—Limited review of certain decisions of Regulator
The amendment to section 39(1) places a person who makes a submission on a relevant Regulator's draft arrangement or revision in the same position as a person who makes a submission on the service provider's proposed arrangement or revision, *ie*, both are able to apply to the relevant appeals body for a review of the decision of the Regulator on the matter. This is relevant where the service provider has failed to submit an access arrangement or revisions as required by the Code.

The proposed new section 39(1a) provides the service provider with a right to apply for a review of a decision of the relevant Regulator under the Code to disallow a variation proposed by a service provider of a Reference Tariff within an Access Arrangement Period or to make the Regulator's own variation of a Reference Tariff within an Access Arrangement Period.

Consequential amendments are made to the matters that may be considered by the relevant appeals body.

Clause 6: Amendment of s. 41 of Sched. 1—Power to obtain information and documents
Section 41 is amended to enable the relevant Regulator to use the powers to obtain information and documents contained in that section for purposes related to a decision under the Code whether to approve, disallow or make a variation of a Reference Tariff within an Access Arrangement Period.

The Hon. R.I. LUCAS secured the adjournment of the debate.

APPROPRIATION BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 692.)

The Hon. R.I. LUCAS (Leader of the Opposition): Before the dinner adjournment I was referring to the anti jobs focus of the Labor government's first budget. I highlighted that the government was estimating a 25 per cent decline in employment growth this year compared to that of the last year under a Liberal government. This has proved somewhat embarrassing for the Premier and the Treasurer. When challenged on this issue in a number of media outlets—and I refer particularly to ABC Radio on 12 July—the Treasurer's defence was as follows:

I was given advice when I came to office that the former government clearly put into its budget figures inflated numbers that were not sustainable.

First, I indicate that I am not sure what occurs under the new Labor government but certainly under the former Liberal government the Treasurer did not put into the budget documents—in these tables—the Treasurer's own personal

estimate of employment growth and gross state product growth. Rather, it is an estimate calculated by the trained economists within the economics division of the Treasury. It is basically their estimates of growth. It is not a question of the individual view of the Treasurer being incorporated into those estimates. So the suggestion that in some way the former government was putting its numbers in rather than Treasury's is fallacious in the first instance.

Secondly, when one looks at last year's budget, one sees that the employment growth number Treasury initially indicated was three quarters of a per cent for last year, and the Liberal government outperformed that significantly in coming in at 1 per cent rather than three quarters of a per cent. The Treasurer was asked about the matter and, based on information provided to the opposition, the Under Treasurer and senior Treasury officers denied ever having given such advice to the Treasurer. Clearly the Treasurer claimed that, when he first came to government, he was given advice that the government had put into its budget inflated numbers that were not sustainable. The finger was obviously immediately pointed at the Under Treasurer and senior Treasury officers, and the question was asked as to whether they were the ones who had allegedly given this advice to the Treasurer. As I said, information provided to the opposition makes it clear—and so did the Under Treasurer and senior Treasury officers—that they had provided no such advice to the Treasurer.

It is interesting to note that, when the Treasurer was asked this question in the estimates committee, he refused to answer that aspect of the question. He went into a long dissertation about 10 years of estimates. In essence, he implied in some way that the Liberal government and Liberal treasurers were making these estimates. However, as I said, that was just wrong.

It will be interesting to note whether this new government has adopted a similar process or whether the new Treasurer, with that undoubted ego he possesses, has decided that he knows better than the economics division of Treasury and has decided to put his own estimates in the budget forecasts rather than those put together by the trained officers within the Treasury. Knowing our new Treasurer as we do, I am sure we would not put that view beyond even the new Treasurer.

I will now move on to the ALP costings document and in particular some significant criticisms made of it. In speaking about the ALP costings document I want to refer to the events of the last two days of the election campaign. On the Thursday prior to the election, which must have been 7 February, the Labor Party eventually released its costings document, having been chased for it for three or four weeks. Mr President, you remember that the Labor Party had earlier released a press statement on 18 January together with a letter from Ernst & Young Corporate Finance signing off on the costings document provided by the Labor Party to them.

That was a focus of the advertising and material used by the Labor Party during its election campaign. On the Thursday prior to the election campaign, the Labor Party through the shadow treasurer at last released its costings document, still dated 11 January. The date of 11 January was clearly stamped on a number of pages to make it quite clear that, while it was released on 7 February, this was the document that had been given to Ernst & Young prior to the Ernst & Young letter dated 16 January. So, the document was provided on 11 January to Ernst & Young, who provided their letter on 16 January, and Mr Rann and Mr Foley released their press statement on 18 January saying, 'Whoopie-do; we have this sign-off from Ernst & Young in relation to the costings document.' It was then used by the Labor Party during the election campaign to demonstrate its financial bona fides.

On 7 February the document was actually released, a document purporting to be the document given to Ernst & Young on 11 January, but it was not released until about 3 o'clock on that Thursday afternoon, to give the least amount of time for the opposition and media to do any sort of analysis. In the period between 3.30 and 5 p.m. before the evening television news, we managed to do a very quick analysis of some aspects of the document. We found hidden on page 9 of the document information that had not been released by me as Treasurer until 23 January, some 12 days after the document had been dated and provided to Ernst & Young. To refresh your memory, sir, when this document allegedly provided on 11 January to Ernst & Young for their sign-off was released on 7 February, it actually had information in it that was not provided until after 11 January, on 23 January.

In fact, in a footnote to page 9 it refers to a press release of the Treasurer, the Hon. Rob Lucas, of 23 January. It related to the critical area of consultancies, which was a huge political issue at the time. The Labor Party had said that it would be able to significantly reduce the expenditure on consultants. As you know, the former government had significantly reduced expenditure on consultants and members of the Labor Party said they would further reduce it by another $20 million. They had indicated that that would be achieved easily from the still significant level of consultancy expenditure. In fact, they were saying it was $76 million, and $20 million coming off the $76 million would be relatively easy. However, on 23 January I released a press statement which indicated that the government had reduced consultancies back to $39 million rather than $76 million.

All of a sudden, the Labor Party was left in essence claiming that it would make a saving of 50 per cent of the total consultancy expenditure left in the state, from $39 million to $20 million. Clearly, this document of 11 January was very hastily doctored by the shadow treasurer and his advisers. The reason I use the word 'doctored' is that they continued to release the document, passing it off as the original document of 11 January. As I said, it still had the title date of 11 January and all the pages were dated 11 January.

So a document was released two days prior to the campaign which at least in one respect and maybe in other respects—we do not know—had been significantly doctored from the document that had been given to Ernst & Young for the sign-off which had been used throughout the television advertising, press advertising and leaflet material as the sign-off of the Labor Party financial bone fides in terms of the costings document. Two days prior to the campaign they released it and they were caught out in relation to this document.

The obvious question of members who are following this would be: why on earth did this not become an issue 48 hours prior to the campaign? A shadow treasurer is caught out doctoring a document and passing it off as the original document of 11 January but it includes information not provided until two weeks later; and, clearly, after he had received the sign-off he had further amended the document and then provided it to the media two days prior to the campaign saying, 'This is the document that was signed off by Ernst & Young back on 11 January.'

When this issue was raised just prior to 5 o'clock on the Thursday evening, I hurriedly rang all of the television

journalists who were about to do their television bulletins. The document heading was 'Dirty tricks in Labor costings document', and it was hurriedly put out to highlight that this particular document was not the document that had been provided to Ernst & Young. What happened then is a salutary lesson in the problems that we have in South Australia with our carefully closeted media. First, Kevin Foley and members of the Labor Party rang all the television journalists threatening to take defamation action against any journalist who reported any of these issues in the way that had been put to them. Journalists about to go to air at 5 o'clock and 6 o'clock on the Thursday night were threatened with legal action by the then shadow treasurer in relation to this issue.

Also, one of the partners of Ernst & Young, Mr Phillip Pledge, also rang the Adelaide *Advertiser*, very strongly putting the point of view that the *Advertiser* needed to be very careful not to in any way damage the reputation of Ernst & Young in its report and raising the spectre of legal action. Ernst & Young also raised some issues of potential legal action against me in relation to some of the statements that I made during the campaign period as well.

I hasten to say that on a number of occasions I indicated that my criticisms of the Ernst & Young sign-off were not criticisms of the nature of the work that they did in the first instance but were criticisms of the fact that they did not have access to budget forward estimates and, therefore, were not in a position to make informed judgments about the impact on forward estimates periods—a deficiency that they themselves acknowledged in the costings document. I, therefore, indicated on a number of occasions publicly that any other private company asked to do the same job would have faced the same problems.

I do have a criticism that, on that Thursday night, a clearly doctored document was provided to the media—one which was clearly wrong—and at that stage the partner of Ernst & Young involved himself in the politics of warning members of the media that they needed to be very careful in terms of their reporting of this document and the statements that the opposition had made about it.

The Hon. T.G. Cameron: I wonder who got them to do that.

The Hon. R.I. LUCAS: The Hon. Mr Cameron makes a comment. I was interested to note that Mr Philip Pledge, I think the first appointment by the Labor government, was made the new Chairman of SA Water immediately after the state election, and I congratulate him on his successful discussions with the new Labor government and his appointment to a position which, as the Hon. Mr Cameron will know, commands a salary, entitlements and committee payments worth somewhere between $40 000 and $70 000 a year.

The Hon. T.G. Cameron: Try $75 000 to $110 000.

The Hon. R.I. LUCAS: The Hon. Mr Cameron thinks I am being conservative and that it might be $75 000 to $110 000. I am not aware of the final nature of the deal that was done, and I congratulate Mr Pledge. Some Liberal ministers prior to that had appointed him to other boards. He certainly has capacity in terms of performance on boards and I certainly would not deny that.

Where I do make a criticism of Mr Pledge's activities relates to how I believe he and Ernst & Young should have approached that consultancy on the Thursday night. There is nothing wrong with a firm being employed by any political party to undertake a costings document, even with the weaknesses of the information base available to any private firm. I have acknowledged that. However, on that Thursday, when it became knowledge that a party had released a doctored document, a document which was not one that it had put its opinion on, in my view Ernst & Young should have asked for the amended document from the Labor Party, if it wanted to, and provided a similar or slightly different sign off that the Labor Party could use.

It was dishonest and deceitful for the Labor Party and the shadow treasurer to pass off a doctored document on the Thursday before the election campaign when they knew that it was different from the document that they had asked Ernst & Young to sign off on.

The Hon. T.G. Cameron: That would be a breach of the advertising provisions in the Electoral Act.

The Hon. R.I. LUCAS: It is potentially a breach, as the Hon. Mr Cameron indicates, of the Electoral Act and a number of those provisions, and a number of others as well. The point I make in relation to Ernst & Young, particularly in relation to Mr Philip Pledge, is that, had he responded in that way, that is, demanded a copy of the new document and then provided on behalf of his company a new sign off, I would have had no criticism of the process that he followed as a consultant employed by the Australian Labor Party. When he personally engaged in contacting members of the media and assisted the process of ensuring that members of the media were very cautious about being able to report at all, I defy members to recall much coverage of this issue at all in the Friday *Advertiser*, and that was because there was very little, and there was very little coverage on Friday in the electronic media, as well.

The Hon. R.K. Sneath: Not worth reporting.

The Hon. R.I. LUCAS: The Hon. Mr Sneath said, I think, it was obviously successful.

The Hon. R.K. Sneath: I didn't say that at all. I said it wasn't worth reporting.

The Hon. R.I. LUCAS: If it is not worth reporting that a document has been doctored by the shadow treasurer, and the document was an essential feature of the election campaign, I worry about the standards that the Hon. Mr Sneath is following. Given the standards—

The Hon. R.K. Sneath: The *Advertiser* obviously didn't believe you when you rang them up.

The Hon. R.I. LUCAS: I ask the Hon. Mr Sneath whether he will deny that the document was doctored. When the Hon. Mr Holloway replies, I ask him to deny whether the document that was released on 7 February was doctored and had been completed after 11 January, even though it was released with the 11 January date on it. I am sure that we will receive no reply from the Leader of the Government in this council on that issue because the actions of the Labor Party and the Treasurer are indefensible.

Some of the statements I referred to earlier about moral fibre and honesty, clearly, would give an indication of the general approach of the present Treasurer in relation to these important issues. As I highlighted during the estimates committees, there were very significant errors in the ALP costings document, not just the one I have highlighted. I want to highlight two of the areas in that document, which was signed off by Ernst & Young and which claimed that the Labor Party was going to fund some of its promises for education and health by taking $7 million out of Treasury's cash reserves and diverting it to help fund Labor's claimed priorities in education and health. This budget document shows that that was not done by the Treasurer in the budget document that has just been released.

The Treasurer and Ernst & Young obviously did not appreciate that any reduction in cash reserves has an impact on the non-commercial cash position, that is, on the deficit. If you spend $7 million of cash reserves, that actually adds $7 million to the deficit in the non-commercial sector. Clearly, the shadow Treasurer did not understand that, and possibly also Ernst & Young did not understand it, because they provided a sign-off to that. The Treasurer was challenged on this in the estimates committee, when he said:

> I was told when I came in that reducing a cash balance does not actually help the budget bottom line: it is not actually a saving. I made a mistake, and it was an embarrassing one. . .

So, the Treasurer for the first time admitted that he made a mistake—a $7 million mistake. Not bad! There are a few others that he has not owned up to yet. He has plenty of mistakes that he can own up to, so he is able to choose from a great selection. In another area, the Labor Party costings document stated:

> Revenue is forecast to be $250 million higher than in the May budget. Labor does not require any of this increased revenue to fund its election promises. This $250 million will be used as a contingency to fund Liberal budget overruns and to retire debt. It has not been included in Labor's costings but is a key component of the Liberals' funding of their election promises. All of Labor's election commitments will be funded from savings and cutting waste and extravagance under the Liberals.

The Treasurer was asked:

> Does the Treasurer now concede that this statement was wrong and that this budget breaks another Labor promise?

At this stage the Treasurer was starting to get a bit tetchy at all the mistakes in the Labor policy costings document being highlighted to him in the estimates committee in front of his Treasury officers, and his response was as follows:

> I am here today to answer questions about my first budget. I have been very tolerant in answering questions that related to things I did and said and prepared prior to coming into government. I think I have said enough on that. Pick holes in what I said before the election if you will: you will not be the first and you will not be the last.

In response to some further questions about why his promise to reduce numbers of employees within Treasury had also been broken, he stated:

> Whilst in opposition, one sometimes says a lot of things about work force numbers without understanding the full complexities of the work that is required for a job to be done.

So, his response in defence of his policy costings document was, 'Whilst in opposition you say a lot of things.' He was then pursued on these issues. He was then further pursued about aspects of this policy costings document. Time tonight does not allow me to go into all the detail. He was pursued about all of these issues that were wrong in his policy costings document. He said in reply:

> That is a good question. As I said, one says a number of things in opposition that one then considers under advisement in government, and one can form different views—sometimes they are complementary to what one has said, and sometimes there is a slight difference.

Then he goes on with this advice to the Hon. Mr Evans:

> Mate, you say things in opposition. If I can give you any advice for while you are in opposition, be careful what you say as it often comes back. I said things in opposition, you are saying things in opposition. . .

The only defence the Treasurer had when all of the problems of the costings document and other statements by the Labor Party in opposition were made, in terms of, 'Did this costings document stand up to the scrutiny?', was either, 'It was embarrassing and I made a mistake; forgive me,' or, 'Look, you say things in opposition,' the inference being, 'You do not really believe them when you say them in opposition. You discount them, because I was in opposition for a time and you change your position when in government.' He had no defence about the particular issues.

As to this claim that they had $250 million in increased revenue to help fund any of the Liberal budget overruns or retired debt, where is that $250 million now since 5 March? All that has now been exposed for the hokey-pokey or adhockery that we were claiming it was at the time. The Labor policy costings document was a fraud. It was said at the time, and what we have now seen from the budget is that the Treasurer has been caught out and his only defence has been, 'Don't believe what I said in opposition; I am now in government.'

As to the claims in the estimates committee in relation to the allegations of the black hole, the longer the government has been in office, the bigger this black hole has become. When it was released, it was $350 million, and now the Treasurer has been claiming that I—being the former treasurer—ignored advice in relation to $561 million worth of cost pressures. On page 60 of the estimates committee transcript, I quote what the Treasurer is now claiming:

> Cost pressures ignored by the former government total $561 million over the forward estimates period.

That now adds in the fourth year of the alleged cost pressures. The press release of 14 March says that $350 million of cost pressures in the state budget was kept secret.

When the Treasurer was challenged about the cost pressures in the estimates committee, he was challenged that he had not replied to a question asked by the member for Davenport on my behalf as to whether it was true that he had been told by Treasury officers that most of the $350 million of these cost pressures in the 14 March press release had not been advised to the former government. That is a fairly serious claim.

On 14 March the Treasurer went out to the electorate and said, 'This government was told about $350 million worth of cost pressures, and this treasurer and this government were dishonest and ignored those cost pressures.' Advice to me from within Treasury says that the Treasurer has been told that the majority of that alleged $350 million in cost pressures had not been advised to the former government or to me as the treasurer. He was asked that question months ago and has refused to answer it. He was asked again in the estimates committee and refused to answer the question.

My question to the Leader of the Government, and we will be going through this and a number of other questions in detail in the committee stage, will be: has the Treasurer been advised by his Treasury officers that a majority of the $350 million—forget about the $561 million at the moment because that takes in a fourth year of the forward estimates—claimed on 14 March to be cost pressures ignored by the former government was not advised to the former government prior to the election?

It is a pretty simple answer. If it is to be consistent with what the Treasurer is saying, he will deny that. The reason I am a bit suspicious is that I have submitted a series of FOI requests which seek information and advice provided to the Treasurer on not only this issue but also the teachers' enterprise bargaining agreement. To this day the Treasurer has refused to provide answers to those FOI requests. If my information is correct, the reason why the Treasurer is

refusing to provide those FOI responses is because of certain information; there is a smoking gun in there that he does not want to let out. What he has been saying since 14 March is wrong and he knew it to be wrong because he had advice—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, that is not the claim. The claim is not what all the agencies were bidding for. That is the first round of the bilaterals—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The previous year was about $1.5 billion. Has the government met all those? Not even the government is claiming $1.5 billion. In relation to this claim, this is not the bilaterals but, rather, what Treasury told the Treasurer; and the Treasurer went public on 14 March to all members claiming that the former government had been told of $350 million worth of cost pressures and had ignored that advice of the Under Treasurer. Why will the Treasurer not provide responses to the FOI requests? As I said, there is a smoking gun hidden in Treasury at the moment that the Treasurer will not want to see released because it makes it clear that what he has been saying is not correct. If my information is wrong, then let the Treasurer provide all those responses through this Appropriation Bill debate and provide the Leader of the Government with the documents that I have been seeking on not only that area but also the teachers' enterprise bargaining agreement.

I have delayed voting on the censure motion of the Treasurer because I am waiting to receive this FOI information so that I can provide to the Independent members of the Legislative Council—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: A lot of information is leaked to the opposition, I have to concede that, but I am seeking FOI information so that we can provide to the Independent members information which I have been told may well exist within the Treasury department and which will show that the statements being made by the Treasurer, both in the house and outside the house, are untrue in relation to the teachers' enterprise bargaining agreement and some of these issues involving the cost pressures.

The other issue which is important in relation to the black hole that has been pursued is how the Treasurer will allow the Under Treasurer and Treasury officers to produce the mid-year budget reviews for this year and future years. I remind members that on 14 March the Treasurer released a document from the Under Treasurer which indicated what the Under Treasurer had included in the mid-year budget review. The document states:

> We have included cost pressures where in our view it would be very difficult to avoid incurring some additional expenditure, either because of the practicalities of the situation or our perception of what is likely to be politically acceptable.

That is the Treasury officers' perception of what is likely to be politically acceptable. I make it clear that these judgments by Treasury officers about what should be included in the mid-year budget review were not backed by cabinet decisions, Treasurer's decisions or government decisions in any way: they were the judgments of the Under Treasurer and his officers of what is likely to be politically acceptable.

The question that I put to the Leader of the Government, because in the estimates committee the Treasurer refused to answer it, is: will the Treasurer allow the Under-Treasurer to produce the mid year budget review this year in exactly the same way as he says it should have been produced this year—that is, that the Treasury officers can make their judgment about what is politically acceptable, irrespective of a cabinet decision, or a Treasurer's decision or a government decision? Will he undertake that the Treasury officers will be able to conduct the mid year budget review in exactly the same way that he has allowed them to conduct the mid year budget review this year?

This budget that we are debating accepts that the 14 March budget update produced by the Under-Treasurer is the foundation document for the forward estimates, to which they have then added and subtracted changes and made differences. This budget document is on the basis that the Under-Treasurer has produced a 14 March budget update which has included Treasury officers' perceptions of what is likely to be politically acceptable in that mid year budget review. I want to know—

The Hon. P. Holloway: Things like salaries for teachers, I suppose.

The Hon. R.I. LUCAS: The Leader of the Government defends the position. Will the Leader of the Government and the Treasurer indicate that the Under Treasurer, when it comes to this year's mid year budget review, will be able to make his own assessment of the enterprise bargaining outcomes that are about to be negotiated, even if there is a cabinet decision and a Treasurer's decision which is contrary to his own judgment? I want that specific response from the Leader of the Government, because that is the import of his criticism about the teachers' enterprise bargaining agreement; that is, that Treasury had a view in relation to that, which was different from a cabinet decision and different from a Treasurer's decision.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Even now the Treasurer has conceded that that story is wrong. You will have to catch up with the Treasurer's latest story. The Treasurer has changed his story since then. The Leader of the Government slipped back into the Treasurer's original story that we had nothing in there. The Treasurer at least had to concede that there was $205 million, and also headroom and contingency provisions of $451 million which were unallocated in the forward estimates. So, even the Treasurer has been caught out on that particular furphy that the Leader of the Government has just tried. But that is a furphy and a red herring.

The critical issue in discussing this budget is: how will the mid year budget review be conducted and what will be the rules for the Treasury officers? If the rules are that the Treasury officers have to follow cabinet decisions and the Treasurer's decisions and will not be allowed their own discretion as to their perception of what is likely to be politically acceptable, this whole black hole claim is an absolute fraud, because that is the basis upon which—

The Hon. P. Holloway: Of course they will have to follow the cabinet decisions.

The Hon. R.I. LUCAS: The Leader of the Government says that of course they have to follow the cabinet decisions. Do they have to follow the Treasurer's decisions?

The Hon. P. Holloway: Of course they follow the guidelines.

The Hon. R.I. LUCAS: Of course they follow the Treasurer's decision.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, this is the farce that we are looking at in terms of this budget. In relation to the budget overruns in education, for example, there was a Treasurer's decision and a cabinet decision that stated that education had to repay its overspending over a four-year period.

The Hon. P. Holloway: With the new government, Treasury was asked to look at the figures and identify cost pressures.

The Hon. R.I. LUCAS: No, cabinet and the Treasurer made that decision. This political judgment of the Under Treasurer was contrary to a decision of cabinet and was contrary to a decision of the Treasurer. That is what you and the Treasurer have been arguing in relation to these issues.

It is unacceptable that, in a mid-year budget review, Treasury officers should be able to make decisions contrary to the cabinet decision and contrary to an explicit instruction from the Treasurer not to do something. It is unacceptable. As I said, the last person in the world—with the greatest respect for my friends within Treasury, whose economic and financial skills I admire—from whom I would be seeking political advice would be Treasury officers. Under-treasurers and Treasury officers should not make judgments about our perception of what is likely to be politically acceptable and to put those into the cost pressures.

This is the note of 13 March that was sent to the new Treasurer. It was signed by Jim Wright as the Under Treasurer. It is dated 13 March 2002 and it says, 'We included our perception of what is likely to be politically acceptable into the mid-year budget review cost pressures.' That is what the leader's minister and Treasurer have been defending; and at least we have some honesty from the Leader of the Government in that he agrees with my position and not with the position of the Treasurer in relation to these issues. What we want and what we deserve is an answer from this government as to how Treasury will be instructed to complete the mid-year budget review.

Will it be in exactly the same way that the Treasurer is arguing, or is it the way that I argue it should be and the way in which the Leader of the Government, in agreeing with me, argues it should be? It should be following cabinet decisions; it should be following the Treasurer's decisions and, in particular, if the Treasurer gives an instruction in a particular area that ought to be the case. Let me acknowledge that, in some areas, as I said earlier, when there are estimates about the revenue projections from the revenue tax base and employment growth projections that is something in which the Treasurer of the day, at least until today, has involved himself. That is a decision that Treasury officers take. However, if there is an explicit decision about an expenditure, if there is a debt to be repaid or if there is a new expenditure item, that is a decision for the cabinet and/or the Treasurer.

The Hon. J.F. Stefani: Or if an enterprise bargain is afoot.

The Hon. R.I. LUCAS: Or if enterprise bargaining is afoot, as the Hon. Mr Stefani says, that is a decision for government. It is not a decision for the Under-Treasurer or for Treasury officers. In relation to this politically acceptable bit, the greatest criticism I have is not in relation to the enterprise bargaining but in relation to an explicit decision by the cabinet and me that when education overspent it had to repay that money out of its funding for the next four years.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, the new government, if it wants to, can change that decision because a government is elected to make those decisions. What I will not accept and what I would hope the new government would not accept is that if a Treasurer and a government—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, you must repay it.

The Hon. P. Holloway: That is financial nonsense.

The Hon. R.I. LUCAS: The honourable member is saying that a government department can overspend and it will get repaid.

The Hon. P. Holloway: It can under you.

The Hon. R.I. LUCAS: No, that is what the honourable member is saying. Under this government two departments overspent and they were rewarded for their overspending. That is what this government has done. Those departments were rewarded for overspending. In relation to education, the former government said to them, 'If you overspend—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, you are not. This government is saying to those departments, 'If you overspend we will reward you for it', and every other department that worked within its budget and did not overspend will look at education and health and say, 'Well, they overspent. Labor governments, Labor Treasurers, are a soft touch. They overspent and they just got the money given to them. Why worry about it?' There is no penalty in relation to overspending from education and health.

I now move on to the debate about future wage cost pressures. The Labor government in this budget has indicated that it has budgeted for wage cost increases of 3.5 per cent a year. On page 68 of the estimates committees report, the Treasurer indicates that the budget and forward estimates provide capacity to support a 3.5 per cent per annum wage outcome for the future. That is very interesting. This government has put into the forward estimates exactly the same level of wage cost increase that the former Liberal government put in. We have heard criticism for the last six months that we did not provide an appropriate level of wage increase for the public sector. What did the Liberal government do? It put in 3.5 and 4 per cent for various public sector wage groups over the recent years.

For all the rhetoric we have had from this administration that the Liberal government had not provided sufficient funding for public sector wage increases, when it had been caught out as to what was in its forward estimates, all it has put in is the 3.5 per cent, which is exactly the same as the Liberal government had done. The criticism we have about the teachers' EB was that we had not provided enough for the teachers' enterprise bargaining increase. Part of that is that this government rolled over very quickly with its mates in the teachers' union and gave them whatever they wanted, plus a bit.

My position, as I indicated, was that they were asking too much, in particular in relation to non-salaried items; and, whilst there was no cabinet decision (and I acknowledge that in the statements I have made), I would certainly have argued—and I am sure some of my colleagues would have agreed with me—that we should not agree to all the provisions, particularly the non-salaried provisions, that the teachers were asking for in relation to the teachers' EB. Yet we are the ones who are now being criticised because we did not provide enough money for the Labor agreement with its teacher education union mates. What hypocrisy! The government settles a deal with its mates in the union and then says, 'You did not provide enough money for this deal we have just done with our mates.'

What absolute hypocrisy from the Labor party that we could not fund its deal with its teacher union mates within education. What hypocrisy also that, having criticised us for our wage provision, it put in exactly the same wage provision for the next four years for the public sector—3.5 per cent. What happens when the government does its next deal—the

next teachers' enterprise agreement, the nurses' agreement or the doctors' agreement—and it settles with its union mates at a higher level? What will the government's response be to that in relation to wage provisioning? That is, will the government accept that it has provided at exactly the same level, and in some cases below, because some years we provided 4 per cent for some public sector groups—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It is not a question of what we had to tell you at all—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It is not a question of having to tell you because, frankly, what we were trying to do was negotiate wage deals with unions without telling them what we had in the budget. The fact that the government put all this into the budget is an issue for the government, but the Labor government cannot criticise the Liberal government when it has put in only 3.5 per cent for wage provisioning for the public sector, which is exactly the same as (or slightly less than) the Liberal government had put in for the last three years for the public sector. The hypocrisy of this administration, the minister and the Treasurer in relation to the public sector wage increases, and the supposed black hole is starkly exposed for everyone now to see. During this budget debate, during the committee stages, we will be going through the detail—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The leader of the government wants to go off on a red herring: every time he is in difficulty in relation to the detail of the budget he wants to talk about something else. It was the same with the Treasurer in the estimates committees.

The Hon. P. Holloway interjecting:

The PRESIDENT: Order! The leader will have the opportunity to reply in detail.

The Hon. R.I. LUCAS: When the heat was put on, he went missing. When the heat is put on in this chamber, the leader of the government cannot respond with any sort of informed response in relation to the points that have been made about his budget that he is having to defend in this place.

In relation to the black hole claims I refer to page 81 of the *Hansard* from Estimates Committee A. I do not expect everyone to remember this, but when the budget update of 14 March—the document that claimed the black hole—was released, we pointed out that the former government had not only provided $205 million for the teachers' wage increase but it had also put aside $451 million in unallocated expenditure into headroom and capital contingency. So there was actually $656 million of provisioning for the teachers' wage increase, unexpected capital cost projects and headroom, in the forward estimates.

When we raised that issue, the Treasurer said that, based on the Under Treasurer's advice, these provisions should not be regarded as available to offset the deficits identified in this particular black hole claim. If they are not going to be used to at least partly address those, what on earth are they going to be used for? Are they going to be sitting in the Treasurer's back pocket for ever and a day?

We then asked a question in the estimates committee about the capital contingency. The former government put aside $95 million for 2003-04 and $155 million for the following year, 2004-05, as a contingency for unexpected capital works. Bear in mind that the Treasurer said that none of that money can be spent on these cost pressures because that money is to be kept for the future. Given that that was his argument, we therefore asked the Treasurer, in the estimates committee, whether he still had $95 million left in that capital contingency and $155 million left in 2004-05, in order to be consistent with his comments post 5 March.

Surprise, surprise. What did we find in the estimates committee in relation to the capital contingency? Was there $95 million and $155 million? No. The government has raided the capital contingency for its capital expenditures. In 2003-04, instead of $95 million there is now only $50 million—almost half the capital contingency has been spent by this government.

The Hon. J.F. Stefani: Where's the rest gone?

The Hon. R.I. LUCAS: Exactly. The Hon. Mr Stefani asks, 'Where has it gone?' We had put aside $155 million for 2004-05—

The Hon. P. Holloway: The fact is it was never there. That's the truth of the matter.

The Hon. R.I. LUCAS: Now the Leader of the Government in the Council is arguing that it is not there. The Treasurer has said it is there but it cannot be used; the Leader of the Government is saying it was never there. Could they at least get their briefings right; could they at least sing from the same hymn sheet; could the Leader of the Government—at least occasionally—agree with his own Treasurer? I admire his honesty, or his stupidity, or whatever it is, but at least he should sing from the same hymn sheet. Mr President, I should not refer to stupidity in relation to the Leader of the Government.

Members interjecting:

The Hon. R.I. LUCAS: In 2004-05, instead of the $155 million which we had left, there was $100 million. The government had raided the capital contingency by $55 million in that year plus $45 million. There was a $100 million raid on the capital contingency—

The Hon. P. Holloway: That money was never there and you know it.

The Hon. R.I. LUCAS: The Leader of the Government in the Council still says it was never there. I challenge the Leader of the Government, when he brings back his replies, to tell us whether the current Treasurer agrees with the statement made by the Leader of the Government that the capital contingency of $95 million in 2003-04 was never there and, further, whether he agrees with the statement of the Leader of the Government that the capital contingency of $155 million was never there.

That will be a challenge for the Treasury officers as they go through this debate. They will be saying to themselves, 'Why on earth did the Leader of the Government say that? How are we going to be able to draft anything for the Treasurer that covers for the'—what word can I use if it is not 'stupidity', Mr President?—'lack of intellectual nous.' The Treasury officers will be saying, 'How can we draft a response to this silly interjection by the Leader of the Government in relation to this issue?' when the Under Treasurer actually released the document which put it in there in the document of 14 March.

Members interjecting:

The PRESIDENT: Order! The standard of the debate is diminishing rapidly. The hour is getting later and I think it would be more helpful if the honourable member got on with his contribution and the Leader of the Government left his response to the appropriate time.

The Hon. R.I. LUCAS: Thank you, Mr President, for your protection. I have been unfairly harassed by the Leader

of the Government, and I am very sensitive to these things. To assist the process of the committee stage of the debate, I want to now put on the record a series of questions which, if I put them in at the second reading stage as has been the practice in the past, would allow Treasury officers to soldier away with them before we get into the committee stage, and that might reduce the amount of time we have to spend in committee.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Don't provoke me, Hon. Mr Cameron. I now want to work my way solidly through a series of questions and place on the record requests for information in relation to the budget.On page 67 of the estimates committee the following statement appears:

> The 2002-03 budget is $152 million higher than this figure—

relating to education—

> representing a nominal growth rate of 8.4 per cent and a real growth rate of 5.8 per cent.

The Treasurer went on to refer to:

> . . . $42 million of additional expenditure that was approved by the current government and not the last government towards the end of the 2001-02 financial year for a number of cost pressures such as user choice and Partnerships 21.

I would like from the Treasurer a detailed breakdown of that $152 million: what were the individual components of that $152 million increased expenditure from one year to the next? On page 69 of the estimates—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No. We have not seen the answers on notice; they were due on Friday. These are further questions. If we do not get answers to the questions on notice, we will have to go through those again in the committee stage. On page 69 of the estimates committee the following reference appears:

> Election commitment savings of $428 million fully fund the election spending commitments of $256 million.

Can the Treasurer provide a breakdown of the individual components of the $428 million and the $256 million referred to in that response? On page 70 there is a reference again to the teachers' enterprise bargaining agreement and, as I said, should the government release FOI information, some of these issues may well be resolved. The Treasurer was asked whether he could confirm that, when the final deal was put together by the Labor government with the Australian Education Union, Treasury opposed some elements of that final package, in particular the non-salary elements of the package, notwithstanding that the Under Treasurer had included those elements in the 13 March update that he provided to the new government.

On page 72, there is a reference to the new government's commitment to establish a new hypothecated fund to which revenue from anti-speeding devices will be directed for road safety programs and policing. I seek from the Treasurer details on how much was actually spent on road safety and policing in 2001-02, and how much is being put into the fund in 2002-03? My further questions are:

1. Will the Treasurer advise on the number of positions within Treasury with a total employment cost package of greater than $100 000 as at 30 June 2001, as at 30 June 2002, and the estimate for 30 June 2003?

2. In relation to the Treasurer's contingency line, what level of funding is included for 2002-03 and each of the forward estimate years?

3. Budget Paper 3, page 3.20, states that, during 2001, 2 175 full-time employees were identified as surplus and, under the ETVSP scheme, 1 476 employees were separated. Will the Treasurer provide a breakdown, by portfolio, of the 1 476 employees who were separated and the 699 employees identified as surplus and not separated? Has the government decided on the terms of any separation package, and will they be similar to the pre-2001 TVSP scheme or the enhanced TVSP which was on offer in 2001?

4. With reference to Budget Paper 3, page 3.4, will the Treasurer provide a detailed breakdown of how the extra funding to DTF for public-private partnerships will be expended, and will the Treasurer now outline which specific projects are being considered by the PPP unit in conjunction with departmental staff?

5. My next question is in relation to the sale of the TAB. In the weeks before the estimates committees, government ministers were claiming that the sale of the TAB would result in losses of $8 million per year to taxpayers. A comparison of last year's budget papers and this year's Budget Paper 3, page 4.15, shows that the TAB distribution back to the budget would be as follows. For 2002-03, last year's budget papers $11.8 million and for this year's budget papers $6.8 million. For 2003-04, it is $12.2 million and $6.9 million. For 2004-05, it is $12.4 million and $8.9 million. For 2005-06, the figure is not available for last year's budget papers and it is $9.3 million for this year's budget papers. Can the Treasurer reconcile these figures, which show a variance of $5 million in 2002-03, reducing to just over $3 million in 2004-05, with the claim from government ministers of an ongoing loss of $8 million per year to taxpayers from the sale of the TAB?

6. Budget paper 4, page 2.18 indicates expenses for employee entitlements. The budget of 2002-03 lists $32.7 million; the estimated result for 2001-02 was $670.9 million. Why are employee entitlements reducing by $638 million this year?

7. Budget paper 3, pages 7.4 and 7.5—SA Water. In 2001-02 the operating profit was $220.6 million and the contribution to government was $206.4 million or 93.6 per cent of operating profits. In 2002-03 the operating profit is estimated to be $232 million whilst the contribution to government will be $239.9 million or 103.4 per cent of operating profit. Is this level of 103.4 per cent of operating profit that is being taken out of SA Water consistent with the agreement reached between Treasury and the SA Water board two or three years ago about the level of contribution to government that could reasonably be sustained by SA Water? As a result of this decision has SA Water had to reduce its capital expenditure program for 2002-03?

8. Budget paper 3, page 4.8—emergency services levy. When was the initial modelling referred to here undertaken and by whom? Who was responsible for the mistakes in the modelling referred to in this section? Will the Treasurer provide a copy of the modelling that has been done on the impact of emergency services levy changes on residential properties? Can the Treasurer outline the maximum increases that some householders will face as a result of these changes to the emergency services levy?

9. Budget paper 3, page 3.21—table 3.19 highlights current grant transfers of $207 million in 2004-05 and $564 million in 2005-06. What is the explanation for the $357 million increase in this budget line?

10. Budget paper 3, page 1.2 states:

> The capital investment program maintains the three year program to 2003-04 already in place and allocates $395 million in additional

funds to priority areas to replace and upgrade infrastructure over four years to 2005-06. . .

Given some of the cuts or deferrals already announced of school projects which had been approved in last year's budget, does the Treasurer still claim 'the three year program to 2003-04 already in place' has been maintained and how much of the claimed additional $395 million is to be spent in 2004-05 and 2005-06?

11. Budget paper 3, page 4.16 states that the TAFE fees budget for last year was $44.3 million and the estimated result for last year was $71.2 million. What was the reason for the $26.9 million increase in TAFE fees last year and who was responsible for the original estimate of $44.3 million?

12. Budget paper 3, page 4.17—table 4.15: other state own-source revenue. The budget for last year was $89 million; the estimated result was $136.9 million. What are the reasons for the $48 million increase in this budget line?

13. Budget paper 3, page 4.20 states:

. . . national concession scheme for low alcohol beer from 1 July 2002. Excise rates for low alcohol beer are to reduce from 1 July 2002 enabling the termination of state subsidy schemes for low alcohol beer.

Will there be any budget impact of these changes on this year's budget and the forward estimates years?

14. Budget paper 3, page 4.11 states:

Grants from the private sector (e.g. funds provided to health units for medical research and education) were incorrectly classified in the 2001-02 budget as commonwealth grants rather than state grants.

Can the Treasurer provide greater detail on this error and say who was responsible for the error?

15. Budget paper 3, page 2.6 states that the government is committed to the following fiscal principle:

To ensure non-financial corporations will only be able to borrow where they can demonstrate that investment programs are consistent with commercial returns (including budget funding).

Can the Treasurer outline in practice what this fiscal principle will mean for an agency like TransAdelaide or the Passenger Transport Board for investment in buses or trams?

16. Budget paper 3, page 6.6 refers to contingent liabilities (page 5), as follows:

Estimated 2002 data is not yet available.

Can the Treasurer undertake to provide this detail to the parliament when it becomes available?

I apologise for the length of my contribution to the second reading debate, but I hope that it will assist in reducing the amount of time that we will need to spend in the estimates committee process. Certainly, the opposition strongly supports the notion of a strong and viable estimates committee process. It may well be a pain in the proverbial backside when one is in government—although I must admit that I enjoyed the estimate committee stoushes when I was a minister. I thought it was a good process for departments to carry out an audit of all their programs and to prepare themselves for questioning by the opposition. The lack of use of some of those questions, perhaps, was more a commentary on the lack of perceptive questioning by the opposition of the day rather than—in my judgment, anyway—a waste of time. It is appropriate that departments and agencies review everything on which they spend their money, and I think the estimates committee process is a good discipline for departments and agencies to assist in that process. Nevertheless, I accept that there are areas for improvement.

Having listened to the Minister for Health speaking for almost 35 minutes in an opening statement (and it may well be that there were some Liberal ministers who did the same—although I am not aware of it), I think is something that will now have to be cut back in some way. My position probably is that there be no opening statements at all, or a limit of five or 10 minutes would be a worthwhile change.

I am sure that individual members will have a number of other issues in relation to areas for potential reform of the estimates committee process. I do not want to waste time today in going through all those issues. However, I want to place on the record that I think the estimates committee process is important. The only detail that we have been able to get out of the budget process has been through the estimates committees in the House of Assembly and through this committee process in our council.

I indicate that the Liberal Party will be reserving the position of asking the minister handling the bill—the Leader of the Government—to have officers available for questioning during the committee stage, as has been the precedent in this place on a number of occasions in the past. I know that, during my period in opposition, minister Cornwall and minister Sumner were asked to have officers available so that they could respond to questioning during the committee stage of the Appropriation Bill debate.

If the majority of the questions that members ask the minister are responded to during this debate, we will be able to minimise the extent of the committee stage of the Appropriation Bill debate. This council has equal powers in relation to the committee stage of the debate, and it is well within the province of this council to decide to pursue, by way of detailed questioning of ministers representing the government, issues to which members require answers.

I understand that the Under Treasurer has returned from the Commonwealth Games and, through him, I congratulate his daughter, Alison, who I think won bronze in one of the cycling events. Now that he has returned refreshed and invigorated, I place on notice that it is highly likely that I will be asking the Leader of the Government to make available the Under Treasurer and senior Treasury officers during the committee stage of the Appropriation Bill debate in order to pursue a number of these issues. I am sure that, for a proper and sensible consideration of the budget papers, the learned advice of the Under Treasurer will need to be made available to the Leader of the Government to assist him in singing from the same hymn sheet as the Treasurer in response to those questions!

The PRESIDENT: Before I call the next speaker, I inform members that it has always been the tradition within the Legislative Council that, when the Leader of the Opposition rises to speak on the Appropriation Bill, he is allowed much more latitude to range far and wide in respect of matters within the bill, and some outside it. I remind members of their responsibility: it is the expectation that they will address themselves to the Appropriation Bill. With respect to how the appropriation committees will take place, I am sure we are all thankful for the learned advice of the Leader of the Opposition, but I am sure that the minister is capable of conducting them in an appropriate way.

The Hon. CARMEL ZOLLO: After all the whingeing, whining and conspiracy theories of the previous speaker, I welcome this budget and congratulate the Treasurer in the other place. This budget implements our commitment to boost spending in our priority areas of health and education. Even more importantly, this budget has laid the foundations

for sustained surpluses. The Labor Party's pledge at the last election for more hospital beds and teachers has been delivered without tax increases. Labor's modest election promises will all be funded and delivered. The budget provides for $1 465 million to be spent over four years for high priority expenditure initiatives, particularly in health and education, including $172 million on health and human services and an extra $188 million on education, including $31.7 million for primary school teachers to reduce our school class sizes.

A further $28.4 million has been earmarked to support the rise in the school leaving age from 15 to 16 years. The parliament recently passed this legislation. I know there was some opposition in some quarters, but I believe the majority in the community have welcomed it. I am pleased to see that we have allocated $17 million over three years for the schools upgrade program for things like playgrounds, toilets and administration blocks—facilities which will be rebuilt and upgraded to improve our schools. It will target schools in greatest need, as identified in the asset management plans. I understand the $17 million is in addition to the annual allocation of asset funding. Spending on core areas is important because we all recognise that the state will never have the confidence it needs to progress without high quality education, health and other services.

In the area of health, apart from the additional beds, we have seen the allocation of $12.7 million in the budget for a number of measures, which will set up the safety of our blood supplies, and $2.4 million for the capital program to support the blood protection measures. I know that many will welcome the upgrade of the Red Cross Blood Bank building in Pirie Street and the replacement of the existing mobile blood collection units with a number of static collection units, again in line with the new fresh blood regulations. As to be expected, the issue of protection of blood supplies and the formation of a national blood authority needs to be tackled on a national level and South Australia has, of course, agreed in principle to support commonwealth legislation to create the NBA.

I was interested to read that one of the key initiatives is funding for the national cord blood bank initiative. The placenta and umbilical cord are rich sources of blood stem cells that are the building blocks of the blood and immune system. They have the ability to treat the same diseases as bone marrow, including cancer, leukaemia and various forms of anaemia. I understand that until recently Australia purchased compatible cord blood units from international registries. However, in 2000 the commonwealth and states funded a national cord blood collection network that aimed to establish a collection of cord blood units that reflect Australia's genetic make up, in particular for Aboriginal people.

As a member of the last parliament's select committee on the Queen Elizabeth Hospital, I welcome the increase of $41.6 million over the next four years to complete the redevelopment of the Queen Elizabeth Hospital, including ICU/HDU, operating theatres/day procedures, medical imaging, clinical and clinical support departments, outpatients and laboratory services. It is important to remember that these funds are for new works in addition to the existing $198.8 million building works currently under construction at the three hospitals—Royal Adelaide, Lyell McEwin Health Services and the Queen Elizabeth Hospital.

The sum of $136.4 million is being provided to that program over three years, with $64.4 million being provided in 2002-03. I note that the budget also allocated significant sums of money to some 12 country hospitals to fund redevelopments and upgrades. The sum of $7.2 million is allocated to complete redevelopments at the Clare, Murray Bridge and Renmark Hospitals. The Murray Bridge Hospital will receive $3.5 million, funding commencing in 2003-04, which will enable the completion of its redevelopment, with provision for high dependency care, palliative care and children's inpatient accommodation. In response to the need for aged care beds, a further $8.4 million will be used to upgrade aged care beds in nine country hospitals, with $6.9 million to be provided in 2002-03.

I am pleased to see an increase in funding of $52 million over four years for disability services and for services provided under the Home and Community Care program. The aged and disability sectors are ones where the requirement for resources is constant and sometimes urgent, and the increase is most welcome. Funding has also been made available for early intervention strategies for young children to ensure that services are integrated to identify and assist children who are in need. Community dental services have suffered greatly over the last few years. So, again, I was pleased to see the Treasurer announce that pensioners and disadvantaged groups will benefit from increased funding of $8 million over four years for community dental services. The quality of people's lives can be made miserable with dental problems, and everything must be done to assist those who cannot afford ordinarily to attend dentists' rooms.

Given the huge mess that was left by the Liberal government, this budget needed to be a tough one. Certainly, one section of the community—those with poker machine venues earning over a certain amount—are not too pleased. As a government we certainly did not have any other choice but to pursue carefully considered and targeted revenue measures, because it is important to protect the most vulnerable in our community. Whilst the Treasurer made it clear that he would not budge on the top marginal rate of tax, in response to some industry concerns, we have now seen a modified taxation regime on clubs and hotels with poker machines. This has come about as a result of discussions between the government and the hotel industry since the budget was introduced. One reason for the change was that pre-budget forecasts of net gain and revenue growth were too conservative. A new levy will apply on the sale or transfer of hotels with gaming machines based on annual net gaming revenue. The government believes that this will raise an extra $5 million per year, and it will be ongoing.

I have never been one to applaud Public Service job cuts, but I am assured that the 600 Public Service jobs to go are not targeted ones and that there are more than that number of people who wish to avail themselves of the packages. Another area that has increasingly been the subject of enormous community debate over the last few years is that of community safety. Our police numbers will be maintained and quarantined in this budget. We all want to live in a community that offers a decent level of protection when needed. Without the necessary resources that confidence can be severely eroded.

DNA testing is an important technological tool which assists our crime fighters in their work, and an additional $3.2 million has been made available over four years for DNA testing, analysis and data management. Legislation soon to come before us will ensure the checks and balances one would expect in this sort of legislation, but no doubt it will be the focus of some very important debate.

In my capacity as Parliamentary Secretary to the Minister for Agriculture, Food and Fisheries and Minister for Mineral Resources Development, I am pleased to see the commitment for funding in many areas of our primary industry. Minister Holloway inherited from the previous government a total lack of ongoing funding for projects such as TEISA, aquaculture and the Natural Heritage Trust.

Indeed, the previous government had apparently scheduled a reduction in the PIRSA budget over the next four years in the forward estimates. Our primary industries have a clean and green label in this state and country, but for them to remain that way we cannot afford to be complacent, especially with the livestock industry contributing $1.2 billion to the South Australian economy. Without too much doubt, the clean, green and safe label is one of the reasons for the success of our food industries in the past few years. It is a reputation which is well deserved but one which needs constant protection. None of us can forget the images of pits of dead animals in the UK at the height of the mad cow disease several years ago. Diseases which have decimated the livestock industry in the UK we certainly do not ever want to see here.

Several million has been provided over four years to fund strategies enabling early detection and rapid and effective response capability to foot and mouth and mad cow disease. Threats are very real and ever present. We just have to think of Caulerpa taxifolia and the damage it could inflict on our fishing stock. Swift action by this government has ensured that the weed currently contained in West Lakes and the Port River will hopefully soon be eradicated. The inconvenience that it has been causing residents for some time will hopefully be small compared with the possible destruction of our waterways and fisheries if not treated.

We are fortunate in being one of the states to have an Australian Centre for Plant Functional Genomics based at the Adelaide University Waite Campus. The total cost of the project is $40 million, with our state investing over $12 million in the next five years. The centre will be involved in world class research and commercial activities in plant biotechnologies. Our aquaculture industry, one of our newest success stories, will receive $2.8 million over four years to fund regulation and management of the industry in accordance with the requirements under the aquaculture legislation which we passed in this place last year.

Our aquaculture industry now exceeds the production value of the state's wild fisheries. In the past, success has predominantly come from tuna and oysters, but species are being developed such as Atlantic salmon and kingfish. The funding will ensure that the industry has a secure position in our economy. Our long established wheat industry has had $0.6 million provided to support the amalgamation of the state's grain research facilities into a new unit. This initiative will enable us to stay at the forefront of research to boost wheat yields. I understand that this initiative will also attract an additional $1 billion in research funds to South Australia.

The targeted exploration initiative has been provided with new and ongoing funding, with a new program being able to enhance opportunities for mineral, oil and gas exploration. The funding will allow for increased exploration and enhance economic growth from the state's mineral and petroleum resources sector. While this budget is only a modest improvement in the state's budgetary position, given the spending on our priorities it has still strengthened the bottom line, and I again congratulate the Treasurer in the other place for his first budget. As our first Labor government budget after some years, it is a budget with the right priorities.

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

RECREATIONAL SERVICES (LIMITATION OF LIABILITY) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 688.)

The Hon. CAROLINE SCHAEFER: Along with the rest of the opposition, I support this bill as a step in the right direction but certainly not, in my view, as the solution to what is an ongoing problem with the whole insurance industry and the amount of insurance that people have been able to obtain or have been forced to pay for in the recent past. As I understand it, this bill seeks to allow a contract for services, which includes 'a contract for the provision or the use or enjoyment of facilities for amusement, entertainment, recreation or instruction.' In other words, it allows a supplier of such services to limit their liabilities.

Again, as I understand it, they must prepare a code of practice to be approved by the minister and, if that is the case, they can then require someone who is going to use their facilities to sign a certificate of waiver or a certificate indemnifying them and stating that the user acknowledges that there is a risk in their sporting activity and takes some of the responsibility and onus for that. I think there are probably very few of us who would not agree with those sentiments.

The commonwealth bill, which this bill is modelled on but which has not been passed, defines 'recreational services' as:

> a sporting activity or similar leisure time pursuit or any other activity that involves a significant degree of physical exertion or physical risk and is undertaken for the purposes of recreation, enjoyment or leisure.

As someone in another place during the debate on this bill said—I think it was the Hon. Iain Evans—he enjoys playing cricket and he can conceive of no time that he would anticipate suing his cricket club. On reading the speeches of a number of members in the other place, someone else said that you would assume that would be the case unless there was blatant negligence on behalf of the club or, in fact, in the area in which you were pursuing your sport.

I want to raise briefly a couple of areas that concern me. There is no provision, as I understand it, for service groups which may provide recreational services such as Apex trains that we see at agricultural shows or the hurdy-gurdies that Rotary might run. There appears to be no provision in this bill to indemnify those people, because they are not active sports. But what concerns me most is that, after consultation, the bill no longer includes provisions permitting parents and guardians to contract on behalf of their children. This then excludes from indemnity many of the people whom we hoped this bill would include. Some of the junior sports that would be excluded, as I see it, are junior basketball (which is played in stadiums), junior tennis, junior netball, etc., and they would not be indemnified under this legislation.

I can speak about the sport that I am most familiar with—I am the state patron of the Pony Club Association of SA. I think that most of us know that the pony clubs and riding schools have been particularly hard hit by the current insurance crisis and have found it particularly hard to get insurance in spite of the fact that the statistics show that

throughout Australia there are many multiples of thousands—I think in the vicinity of 56 000—riding members, yet in the past 12 months I think there were three insurance claims in Australia.

Those figures indicate that pony clubs are not high risk. I suspect that comparing pony clubs with more advanced equestrian sports is like comparing having a hit of tennis with a professional game. It is not a high risk sport. Most riding members are juniors: most are children. My family has been involved in pony clubs for a very long time; my children all began riding in pony clubs, and they went on, I must admit, to considerably more dangerous sports. This will make it even more difficult for junior people and pony clubs to get insurance cover than previously.

The bill seems to discriminate against the people whom we most wish to join in active, family oriented sports at that stage of their lives. This will exclude them. It will also exclude them from riding at professional riding schools, so many of the issues that I hoped would be addressed by this bill have not been addressed. Junior cyclists will be in exactly the same situation, I imagine, and, for that matter, so will junior golf players—anyone who is a minor and cannot sign this waiver of responsibility for themselves. In one way, while I understand the concerns of the law in letting anyone waiver someone else's responsibility, the bill as it stands actually discriminates against the young.

I express those concerns while supporting the efforts that have been made at least to go some way down the path of trying to find some sort of solution for what has become a major problem throughout Australia and, I suspect, most of the western world. Just where this leaves pony clubs and agricultural shows, the places where young people have competed for a very long time, I do not know. I do not have the legal expertise to pretend to know but, as I say, it does mean that some of our more active junior participants will be discriminated against.

The Hon. DIANA LAIDLAW: I, too, support this bill. It has been a nightmare for many organisations not only in this state but across Australia, and I suspect around the world as well, arising from difficulties in gaining access to public liability insurance and then, if they get that access, the cost of that insurance. I have followed with great interest the arguments from the insurance companies themselves because one cannot help but be a little suspicious why this has all come to a head so quickly—whether it was the fright of HIH, whether it was the alarm from 11 September, whether it was bad accounting and actuarial work by the industry at large in assessing long-term risk and providing for claims, or whether it has been the zeal by lawyers to tout for business, seeing liability as a new and lucrative type of business. There is a whole range of factors.

I have questioned whether a move by this parliament and nationally to allow for advertising by lawyers has been wise. In relation to this bill, I thought that we should look at amendments to other acts to provide no longer for that advertising practice, but recently I heard lawyers putting out media releases and getting free-to-air publicity, touting for business that way.

Even if they were not formally able to advertise, there are other avenues today in which they would be seeking group actions to further their business and then work on the basis of commissions if they were successful in pursuing those actions. So, I have been persuaded at this time that the issue of advertising would not necessarily help us deal with this issue of insurance premiums and claims. I want to focus this evening on two areas very similar to those raised by the Hon. Caroline Schaefer in her contribution, although I have a slightly different focus in raising them. It may well be that I ask several questions in the committee stage, which is the more appropriate avenue for me to be pursuing my concerns.

My concerns generally arise from the fact that this is novel legislation. Unlike the discussion paper put out earlier this year, this legislation does not provide for parents to exempt children under 18 years. That is an unfortunate decision. There are many school based activities and others where parents agree on behalf of their children going on trips and doing a whole range of things, where they sign agreements and pay up funds. I do not understand why, in this instance, they cannot also take that further responsibility on behalf of their dependants to waive the claim.

Secondly, in relation to eliminating this provision from the bill there is a potential to see, rather like self insurance examples, that codes of practice and exemptions will be provided for the least risky physical activities or the most easily defined in meeting all the provisions of the bill. What we will find, as in self insurance, is that the most risky practices, the dirtiest of industries, in terms of general insurance, will be those that are left to pay the higher insurance. We find the same sort of thing happening in health insurance where, until the recent rebates were offered by the federal government, the major people taking out health insurance were those with the highest risks (the older people), and those who were prepared to take the risk (the healthy younger people) would not participate. They gave themselves a waiver, essentially, by not taking up the option of insurance.

We will need to be very careful in providing a general provision for waiving people's right to claim under this legislation but insisting that parents cannot waive the same rights for their children, and that we do not find, as the Hon. Caroline Schaefer has said, that this backfires on many of the activities that we genuinely would wish to support in this place and promote in our community at large, that is, activity amongst young people. 'Recreational activity' in clause 3 is defined as:

> (a) a sporting activity or similar leisure-time pursuit; or
> (b) any other activity that—
> (i) involves a significant degree of physical exertion or physical risk; and
> (ii) is undertaken for the purposes of recreation, enjoyment or leisure.

When this definition was first discussed by our joint party meeting, it was considered that the Liberal Party should move an amendment to delete paragraph (b), so that 'recreational activity' was simply defined as 'a sporting activity or similar leisure-time pursuit'. I have since been informed that the Liberal Party could not take this action because the definition reflects what is in the federal bill, although the federal legislation has not yet been passed. However, I have a great deal of concern that the definition focuses on sport and forgets or undervalues the range of other activities in our community. I refer specifically to the arts and cultural activities that may well not have a high degree of physical activity as one would envisage in this bill. Whether it is defined as a leisure-time pursuit could be questionable. It could be part of a curriculum activity or an organised activity and not necessarily within the ambit of a leisure-time pursuit.

The activities that I refer to include, for instance, walking in the street marches organised by Come Out or the Fringe festival. Is it a leisure-time pursuit if you are actually engaged

in the march or the parade itself? If you were just simply standing on the footpath and looking at the parade, it would not necessarily have a physical component but it could easily be seen as a leisure-time pursuit.

I raise those concerns because the Fringe, one of this state's famous arts festivals, was in danger of not operating at all earlier this year because of the insurance issues. It was only as a result of a belated effort through my office as the then minister for the arts, in conjunction with Arts SA, Treasury and SAFA as I recall, that we came to the rescue of the Fringe. Accordingly, insurance arrangements were made to cover both general liability claims and premium levels from the general public and also participants in the parade. I am aware that the Come Out youth festival and parade is also anxious about this matter, and Come Out, as members would know, is certainly Australia's, if not the world's, largest arts festival for young people.

They are concerned not only about insurance and the like for the parade, which involves people walking or observing, but also about a whole range of other fun activities, including painting, making tents, and climbing activities. Whether they are seen as a physical degree of exertion may be questionable. Also, there are circus skills, some of which may be very physical, whilst others may not be deemed to be significant.

This will be quite a problem for a range of fun activities involving the arts that may well be compromised, and we may never see again in this state, if we do not seek to help those organisations by either providing some measure for parents to exempt their children participating in those arts parades or looking at the definition to ensure that it does not exclude the provision for exempting these organisations or forms of activity longer term. I assume that for older people, many senior citizens and others line dancing may be seen as a physical activity with some significant degree of exertion. Perhaps rollerblading and skateboarding for people of all ages will not be provided for because it may be seen as leisurely going down a footpath or along a roadway or track, and it may not be seen as an activity where one puts in an enormous amount of physical exertion.

All these issues are important to explore further in the committee stage. At this stage, I simply register my strongest concern that, whenever these issues of public liability access or the rate of premiums are discussed, so often it is sport that is the focus of debate or concern, not cultural and arts activities. There is a whole range of such activities that are highly important to not only the individual but also our community at large. I did want to bring those activities to focus when we address this bill.

The Hon. T.G. CAMERON: I rise in support of this bill. It is one of three to be introduced by the government as its proposed answer to the liability insurance crisis. It seeks to introduce a system of waivers with the objective of curbing payouts for injuries caused by the risks which are inherent in certain types of recreational activities. This will be done by implementing a code of practice where exemptions are provided from liability unless the code is negligently breached. This will modify the duty of care so that no duty is owed if a person is injured, so long as the code of conduct has been followed. I can see some potential for litigation in that area. Children will be subject to these waivers by giving parents the right to enter into a waiver for their children. I support that.

These codes of practice must be registered with the minister, and displayed at the point of activity and on the minister's web site. There will be a requirement for the consumer to be notified of the code of conduct at the time of contract. I suppose that will be something similar to the sign that you see whenever you go into a car parking station. Once you have passed that sign, whether or not you have read it, you have just given away all rights that you might have had in relation to your car in that car park.

Be that as it may, one can assume that this code of practice will have to be prominently displayed, and perhaps given to each person involved in that recreational activity at the time they enter into the contract. It will be somewhat fiddly and a little messy, but I cannot see any other way around it. However, this requirement to notify the consumer of the code of conduct at the time of the contract and all these provisions can apply only once the commonwealth Trades Practices Act is amended to allow parties to waive the implied duty of care.

I support this bill. It is essentially a voluntary assumption of risk and will stop Australian courts from going down the slippery slope of awarding negligence payments for actions that clearly should involve some sort of waiver on the part of the participating party.

The Hon. G.E. GAGO secured the adjournment of the debate.

STATUTES AMENDMENT (STRUCTURED SETTLEMENTS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 688.)

The Hon. T.G. CAMERON: I rise to support this bill. It is important that this bill be passed so that a scheme is in place when the commonwealth passes the changes to its tax laws. This is the second of the three bills that I referred to that are being introduced by the government as part of its proposed answers to the liability insurance crisis.

The bill seeks to amend the District Court Act 1991, the Magistrates Court Act 1991 and the Supreme Court Act 1935 to allow courts to issue, with the consent of the parties, an order for damages to be paid wholly or partly in the form of an annuity or other periodic payments, instead of the current system of lump sum payments. Currently, courts may order lump sum payments for damages for personal injury. This lump sum reflects all future costs that are expected to be incurred by the plaintiff in addition to compensation for loss of chance, or loss of life or amenity. In any case, it has been more tax effective for a plaintiff to accept a lump sum than a structured settlement.

However, the commonwealth government has introduced changes to the taxation laws to provide a tax exemption for some of these structured settlements, thereby obviating the need to enter into arrangements which may minimise tax. Lump sums can also lead to an undesirable situation where a plaintiff spends their lump sum quickly (and we have all seen instances of this) and, therefore, cannot provide for themselves and perhaps ends up back in the welfare system. Structured settlements would overcome this. I support the bill.

The Hon. G.E. GAGO secured the adjournment of the debate.

WRONGS (LIABILITY AND DAMAGES FOR PERSONAL INJURY) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 689.)

The Hon. T.G. CAMERON: This is the third of the three bills that I referred to earlier. This bill has been introduced by the government as part of its proposed answers to the liability insurance crisis. It seeks to amend the Wrongs Act to extend the system of thresholds and caps that operate under the motor vehicle accident system to all bodily injury claims. Non-economic loss at present is calculated roughly and imprecisely as a payment for pain and suffering, loss of amenity or enjoyment and loss of expectation of life. The bill seeks to amend several principles of liability. In the High Court in 1977, Justices Gibbs and Stevens in Sharman v Evans delivered a joint judgment in the case and warned against the dangers of attempting perfect compensation for non-economic loss.

Perfect compensation in the form of money is impossible because loss of happiness and infliction of pain are not able to be measured in monetary terms, unlike loss of income and medical expenses, which are matters of probability and fact, respectively. Our current motor vehicle accident inspection regime imposes both a floor and a ceiling to awards of damages for non-economic loss.

They are not to be awarded unless the plaintiff has been significantly impaired for at least seven days or has incurred medical expenses of at least $1 000. Courts then rank damage on a scale of 0-60, 60 being the highest level of pain and suffering, disfigurement and loss of enjoyment, with zero being the lowest. That number is then multiplied by a statutory amount, adjusted for cost of living ($1 000 at 1986 levels; adjusted for cost of living increases, it is now $1 710), so that the maximum award became $60 000.

However, since 1986, it has increased to $102 600. For example, in Burford v Allan, a seven year old was made a quadriplegic in a road accident before this regime came into force. The suffering in this case would be considered at the top end of that scale. She was awarded $320 000 for non-economic loss in 1993, when the case was decided. Under the current motor accident compensation regime, she would have been awarded about $75 000 ($60 000 allowing for cost of living over six or seven years). The details are set out in Burford v Allen (60SASR 428).

John Keeler, Professor of Law at Adelaide University, stated that the purpose of this road accident compensation scheme is to limit payouts and hence third party insurance premiums. As well, it serves to give the courts clear direction that non-economic losses are less important than pecuniary losses, and that it is more important to provide substantial compensation to people who have suffered serious injuries than it is to people who have suffered minor ones.

The government intends to extend this motor accident compensation scheme to all personal injury cases. However, it seeks to modify it to provide for a sliding scale. The claim is that with a fixed multiplier the most severely injured are undercompensated and the most severely injured are over-compensated.

The figures are as such: 0-10 points, $0 plus $1 150 for each point; 11-20 points, $11 500 plus $2 300 for each point over 10; 21-30 points, $34 500 plus $3 450 for each point over 20; 31-40 points, $69 000 plus $4 600 for each point over 30; 41-50 points, $115 000 plus $5 750 for each point over 40; and, 51-60 points, $172 500 plus $6 900 for each point over 50. I ask the government: how are these figures arrived at—arbitrarily or by examining the points awarded in cases, or any reviews, reports etc., on which the government relied and, if so, would the government—at a later stage when we are dealing with this bill—answer that question?

Therefore, the maximum under the scheme, which has been outlined by the government, is $241 500 adjusted for inflation. Also, a minimum threshold must be reached before non-economic loss can be established. My question to the government is: by reducing minimum compensation payouts by one-third, what percentage of the overall cost of non-economic compensation will be saved? Also, a minimum threshold must be reached before non-economic loss can be established—this is seven days incapacity or medical costs of $2 750. Damages for economic loss will be capped at $2.2 million, as they are under the motor accident compensation scheme.

It will increase from 3 per cent to 5 per cent the deductions made on lump sum payments. This brings the common law into line with the motor accident scheme with regard to lump sum deductions. The concept of a 3 per cent deduction was arrived at in Todorovic v Waller in 1981 to estimate and reduce the benefit of a lump sum payment and subsequent investment/taxation over a steady wage (noting that the lump sum is based on weekly wages after tax). But, because interest rates and taxation arrangements, as well as inflation, change over time, this amount fixed is arbitrary. In addition, no costs are to be awarded for the cost of investment or management of the award, or interest to be awarded on damages for non-economic loss or future loss. Reducing this fixed amount does nothing tangible to the justice of the concept but changes the payout amount to help limit awards and thus insurance costs.

The bill also makes provision with regard to gratuitous services provided in so far as the injured person cannot claim for voluntary assistance unless it is provided by a parent, spouse or child, or to reimburse reasonable out-of-pocket expenses. This, in any case, is limited to four times the average state weekly earnings, but it can be exceeded if reasonably required to do so. If a person is needed to be hired to provide these services, then damages are limited to the average weekly state earnings. The bill makes further provisions as to criminal offences. If the person was committing an indictable offence at the time and this conduct contributed to the risk of injury, then, in this case, the defendant cannot claim damages. Further, contributory negligence will be presumed in cases of intoxication. Damages in this case must be reduced by at least 25 per cent. Non-self-induced intoxication is exempt from this.

It will also be presumed that, if a person relies on the skill or care of another who is intoxicated, and is injured, and that person knew or should have known of that person's intoxicated state, then contributory negligence is presumed and damages must be reduced by at least 25 per cent. This reliance on skill and care does not affect persons under 16 and no reductions will be made in these cases. There are provisions for exempting good Samaritans from liability.

If a person who acts without expectation of payment or other consideration, for example, comes to the aid of a person who is apparently in need of emergency assistance, or a medically qualified person gives advice as to the treatment of a person in need of assistance, they are exempt from liability as long as their treatment or advice was given in good faith and without recklessness. Third party motor

vehicle insurance schemes are exempt from this, and these liability exemption provisions do not apply if the good Samaritan's judgment was significantly impaired by alcohol or another recreational drug.

Finally, the bill provides that expressions of regret are not an admission of liability. Some questions that I would like the government to look at are as follows: how many cases in South Australia for personal injury were awarded in the following years: 1997, 1998, 1999, 2000 and 2001? How many points for non-economic loss were awarded in each of those cases? What would the total payout be if the sliding scale were applied to these cases? What would the total payout be if the fixed scale were applied to these cases? What is the government's estimated flow-on effect to insurance premiums based on these figure?

In conclusion, I support this bill. It helps to clarify existing provisions and it should help to reduce insurance premiums, and it also makes sensible amendments to contributory negligence reductions and addresses a range of liability issues.

The Hon. G.E. GAGO secured the adjournment of the debate.

PRICES (PROHIBITION ON RETURN OF UNSOLD BREAD) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 August. Page 660.)

The Hon. IAN GILFILLAN: On behalf of the Democrats, I indicate support for the second reading. This is the same bill that the former government introduced last year. Unfortunately, parliament was dissolved before that bill could be passed. We supported this bill last year and, as I indicated, we will continue to support it now. Bakeries in this state once faced a problem relating to the return of unsold bread. This was a particularly unfair burden on smaller bakeries that could not afford to dump or give away unsold bread. We as a parliament dealt with the matter in the 1980s by prohibiting the practice of returning unsold bread by retailers to the bakery that supplied it.

However, with the expiry in September 2001 of the old Prices Regulations 1985, there is concern that the regulation-making powers under the Prices Act 1948 are not extensive enough to accommodate new regulations of the same form as the old. The regulation-making powers of the Prices Act 1948 in regard to unsold bread state that regulations may be made to:

> (b) prohibit any transaction or arrangement under which financial relief or compensation is directly or indirectly given or received in respect of bread that, having been supplied for sale by retail, is not sold by retail;

This does not apply to bread returned without financial relief or compensation. To remedy this the bill before us adds the following subsection to the regulation-making powers of the act:

> (ba) prohibit the return of bread referred to in paragraph (b) to the supplier of the bread (whether or not financial relief or compensation is directly or indirectly given or received in respect of that bread);

When we dealt with the bill last year, I thought that for drafting purposes it may have been better to amend paragraph (b) rather than adding another paragraph to the act. However, I do agree that the current amendments to the legislation still achieve the desired effect and, as the measures are uncontroversial and logical in nature, we support the second reading.

The Hon. T.G. CAMERON: I, too, rise to support this bill. That is four in a row now. Briefly, since the 1980s there has been an increase in the practice of bakeries accepting the return of bread from retailers and writing off this cost. While larger bakeries may be able to write it off, smaller bakeries struggle. In 1985, the regulations which were due to expire in September 2001 prevented this practice. This bill was introduced in a previous parliament but lapsed when the parliament was prorogued for the state election. All this bill does is extend the power of these regulations and update them to cover any possible gaps between the 1985 powers and the 2001 powers. I support the bill.

The Hon. R.K. SNEATH secured the adjournment of the debate.

RECREATIONAL SERVICES (LIMITATION OF LIABILITY) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 707.)

The Hon. A.J. REDFORD: I support the second reading of this bill and congratulate the government on bringing it to the parliament for its consideration. The primary purpose of the legislation is to provide a mechanism whereby participants in a defined recreational activity can agree with a provider to modify the duty of care owed by the provider to a consumer. The duty of care is modified by a registered code. The intention of the bill is to provide some certainty to the provider of a recreational service as to just what the law requires of him or her, and to the consumer as to just what safety measures he or she can expect: or at least that is what the bill intends.

The bill provides that the process of registering a code is to be left entirely in the hands of the minister and sets out notice requirements on the part of the provider. The Hon. Robert Lawson set out in some detail the opposition's response to the bill and I endorse many of his comments. In summary, he criticises the bill in a number of respects including:

(a) the limited class of persons or organisations that might avail themselves of the benefits of this legislation;

(b) the vagueness and uncertainty of the procedure for the approval of the code;

(c) the role of parliament in the establishment and modification of codes of conduct which, in effect, is a law-making activity; and

(d) the future monitoring of this and other legislation.

He also raised the issue of minors and whether or not the legislation should include them. In another place last week—and the bill was introduced in the House of Assembly and dealt with six days ago in the space of less than a few hours—a debate of sorts took place which was not helped by the way the government has managed this whole process. However, it was acknowledged that the hands of this parliament are somewhat tied by the federal parliament and the nature of any changes that might be made to the Trade Practices Act. In particular, we are restricted to amending the law so that it is consistent with proposed amendments to that act. That, I must say, is regrettable because the bill, in my view, could and

should go much further. As a consequence, many organisations that conduct low-risk activities cannot avail themselves of the protection that this legislation affords.

The Hon. Iain Evans raised an important issue in another place and flagged an amendment—and I will deal with that in some detail later in my contribution—but the issue was that of risk management or, in lay terms, accident prevention. Indeed, he flagged the establishment of an office of risk management. The member for Bragg also raised the issue of the indecent haste with which this bill has been rushed through parliament. She quite properly also expressed concern that this bill's effect on the current insurance crisis had not been fully assessed. The Attorney made his usual interesting contribution and raised the issue of the changing attitude of Australians concerning persons accepting responsibility and the consequences for their own actions. I must say that his comment, whilst generally accepted by many in the community, is in some respects becoming an urban myth.

I suggest that perhaps we look seriously at where some of these claims are coming from—and if I can digress. When I was in Austin, Texas, last year I was looking at this specific issue. I attended at the national parks areas in a number of places, including the centre of that wonderful city. As we were walking through the bush I noticed that there were a lot of holes and a number of, what I would call, dangerous spots on the track; certainly not up to the standard that we expect for walking trails managed by National Parks and Wildlife in this state.

I asked the relevant officers whether or not there had been a lot of litigation involved in the parks in the great state of Texas, as I was under the assumption, based on my reading of the media, that the Americans were people who would sue at the drop of a hat. I was informed that not one claim had ever been made by any person in relation to any accident that had occurred in any national park or state park in Texas. I was informed that the reason for that is that people in the United States generally tend to accept and assume the risk—but I will return to that somewhat later because—

The Hon. Diana Laidlaw: It's only when they're walking in the park—at no other time.

The Hon. A.J. REDFORD: Well, I'm not sure about that. I think the honourable member will be interested to hear what I was told by a number of underwriters in the United States as to where some of these claims are coming from and that perhaps we might be speaking to our underwriters in this country to determine precisely where some of these claims are coming from. Certainly that information has not been put before this parliament during the course of any debate that we have had on this issue to date. Unfortunately, the Treasurer, a man who has an extraordinarily high opinion of himself, did not comment on the issue of establishing an office of risk management for volunteer groups. In the absence of any comment and in the absence of any response to that very constructive suggestion put by the Hon. Iain Evans, I will be moving an amendment that requires the government to establish such an office.

Just as occupational, health and safety formed a key plank to the WorkCover legislation, risk management is the critical component that is missing from this legislation or, indeed, from the whole range of measures that this government has sought to put forward in dealing with this very difficult issue. The issue of membership is also important because it is not clear to me whether some people in certain categories would be covered by either clause 6(2) or clause 6(3); and indeed I would invite the minister to give me some examples during the course of his response. Let me explain it in the following way.

Clause 6(2) refers to the giving of notice by the provider to a consumer. On the face of it, clause 6 (2) provides that, if I enter into a recreational activity being conducted by a provider and I have to pay for the service, I specifically have to enter into or specifically be given a notice to that effect. Whereas, if I am using these services gratuitously (in other words, if I do not pay), all the provider has to do is prominently display a notice. I take no issue with the general thrust of those two principles, but I would like from the minister some indication of where a member of a football club might fit. As a member of a football club, I pay my dues and subscriptions, and I would like to know whether I have to be specifically given a notice or whether I would be deemed to be a person that is engaging in that recreational activity in a gratuitous fashion.

There are a number of other issues raised in the bill. Given the lateness of the hour, I will pose a series of rhetorical questions, as follows:

1. Should we be considering that this act applies to recreational activities provided by schools and not only to students but also to the general community?

2. Are the tests of recreational activity and the involvement of a significant degree of physical exertion or physical risk too vague in relation to the requisite degree of physical exertion or physical risk? A significant degree of physical exertion or physical risk may mean entirely different things, depending on your age and antecedents.

3. Will activities such as hiring aircraft for pleasure be included?

4. Will amusement rides, which require no physical exertion but with problematical physical risk, be covered?

5. In relation to the registration of codes, how do we overcome the possibility that the code will require people to undergo special training only offered by monopoly providers?

6. In relation to the registration of providers, how can we ensure a minimum of bureaucracy? How do we ensure that those organisations wanting to avail themselves of this important legislation are not so weighed down with costs or bureaucratic demands that they walk away because they cannot secure the benefit of this legislation?

7. What happens in the case of a cancellation? Should there be a right of appeal, and in what circumstances would there be a cancellation?

They are just some very brief issues that this bill raises. Earlier this year, I was fortunate to receive a submission from the Australian Plaintiff Lawyers Association and, in particular, I met with Eva Scheerlinck and Rob Davis. I understand that they were seeing me at the time as a consequence of my appointment by the previous government as chair of a group to look at risk management, insurance and other issues associated with this area.

In their rather lengthy submission to the National Ministerial Summit into Public Liability Insurance, they raised a number of suggestions, and I would be interested to hear the government's response to these suggestions. Part D of the report (and I am sure that minister Foley would have a copy) raised a number of non-legislative solutions to the current community crisis. At page 20, they talk about community solutions and give some examples. One example is the situation that exists with Meals on Wheels in New South Wales.

This document refers to the fact that the New South Wales Meals on Wheels pooled insurance with risk management

systems and was able to secure substantial differences in premiums as a consequence of that response. The second issue which is referred to in some detail on page 22 of the report is risk management. The third important issue raised—and others were raised—is the question of government underwriting and support. Government already provides a significant degree of underwriting and support for the volunteer sector. For instance, all volunteers engaged in the CFS and Friends of the Parks are underwritten by the government because they are seen to be engaging in activities which are part of a legislative framework.

There is another issue in terms of insurance which this report did not look at. It is quite clear to me that there are many occasions when we have double, triple and quadruple insurance of the same risk. For example, if I am a member of an Apex club and I am working with Friends of the Parks in a motor vehicle, I am triply insured. First, I am insured because I am a member of Apex and I paid a premium in relation to my membership to cover me for all sorts of risks; secondly, I am insured as a consequence of being involved with Friends of the Parks; and, thirdly, I am insured because of the compulsory third party motor vehicle insurance scheme. That is just one example.

I do not think any work has been done on the part of this government to assess what cost savings there might be to the volunteer and recreational sectors by ensuring that there is not doubling, tripling and quadrupling of insurance. In any event, page 44 of the APLA report—and I have not seen anything that contradicts this in any report—states:

> The real causes of premium increases lie with the insurance market and external global factors. Premiums have increased across all areas of insurance, not just public liability. Premiums have also increased globally, and the crisis is not just limited to Australia. Australian litigation rates or claims trends cannot therefore be responsible for the spike in the cost of premiums. In fact, all the evidence is to the contrary.

From my own personal experience I think that that assertion is quite correct. I will cite one example. Until relatively recently, I lived at Brighton, and I think my insurance premium for my house and contents cost me about $220. I have now shifted to Thebarton. Because of some perceived crime rate—perhaps this has something to do with the local member, the member for West Torrens, Tom Koutsantonis—my insurance premium has doubled. In fact, while I am on this topic, I would like to know what my local member is doing about this extraordinarily high crime rate that exists in his electorate, because I have not seen anything in the *Messenger* from my local member about what he is doing about that. I have become used to the member for West Torrens doing little for his local constituents. I commend members and others to read the APLA report.

Some members may also recall that I made a lengthy contribution on this issue in relation to the Volunteers Protection Act, which was passed by this parliament in November last year. In that contribution I told members that I travelled to the United States, at the minister's request, in July last year specifically to look at this issue.

I have no doubt that this is a very complex issue. It is important to understand that people in the volunteer sector—and, indeed, the recreational sector—range from those performing complex management tasks, such as serving on boards of varying sizes and importance, to those who provide professional services, such as doctors, nurses and lawyers who provide their services on a voluntary basis, to those who provide volunteer services at a pretty basic level, whether it be simply selling raffle tickets or digging holes to make playgrounds and the like. I also referred in detail to the history of the volunteer protection legislation that existed in the United States that lead to its legislative framework.

In my contribution in November last year (and I am sure that our erstwhile Treasurer would have read it in some detail), I pointed out the need to develop strategies to ensure better risk management. I also pointed out the importance of developing the educative systems in relation to insurance and how we can bulk purchase the insurance. The disappointing thing is that, whilst this Treasurer has been running around cooking the books, presenting the budget, travelling overseas and doing these other things, he decided—because this is the sort of Treasurer he is—that he could not trust the Attorney-General to do a proper job of this, so he took the job off him, and what we have is a short legislative response to an issue—

The Hon. J.S.L. Dawkins: Was the Attorney-General pleased?

The Hon. A.J. REDFORD: I do not know, and I certainly would not compromise the Attorney-General by answering, because I know that he is a good, true, loyal and faithful servant of the Labor government. But we on this side know that the Treasurer, in this case, has bitten off more than he can chew, and he has given us another glib, two-bob response. The fact of the matter is that he has done absolutely nothing in relation to the area of risk management. And I know you, Mr President: if we put up a WorkCover bill or a series of amendments in relation to workers and we did not deal with any issue associated with occupational health and safety, you would be severely critical. Indeed, I note that the Minister for Regional Affairs also is nodding his head vociferously to that specific comment.

The Hon. T.J. Stephens: Vociferously?

The Hon. A.J. REDFORD: For the benefit of the Hon. Terry Stephens, that means that he is nodding it a lot, and he is nodding it forcefully.

Members interjecting:

The Hon. A.J. REDFORD: No, when he nods his head when he goes to sleep it is an entirely different physical action. I have had eight years of watching him, so I can tell the difference. The point I am trying to make is that, if we brought in WorkCover legislation, or any of that sort of legislation dealing with the situation concerning workers, without any statement and without anything to do with occupational health and safety, we would be soundly criticised—and quite rightly so. But this government has done exactly that. It has done absolutely nothing other than think that it can wave a legislative wand over this very complex and difficult issue and something will come out of it. I, for one, am becoming increasingly cynical about this government and, in particular, the Treasurer, who I think is one of the poorest performing senior ministers that I have seen since I have been watching politics.

I cannot emphasise enough the importance of risk management. There are a number of other issues in relation to this area that I think also need to be considered. But in the sense of emphasising the importance—and the Treasurer is obviously a very slow learner, because I said all this back in November last year on two separate occasions—

The Hon. T.G. Roberts: He told me he drafted the bill around your contribution last year.

The Hon. A.J. REDFORD: Well, he certainly only read the first four paragraphs—and, knowing the Treasurer's attention span, one perhaps should not expect much more than that. I visited Melanie Herman, the Chief Executive

Officer of the National Non-profit Risk Management Centre in Washington DC. This office was set up by President Bush Snr. He budgeted for it and the office was opened by President Clinton. This goes back some way. This office was established by the federal government in the United States to offer free advice on legal and insurance issues to the non-profit community. They emphasised the fact that risk management and proper training are absolutely vital. In terms of some of the similar legislative enactments that have taken place in the United States, she emphasised the fact that, once enacted, legislation such as this, in the absence of education, can cause confusion among people, causing insurance companies to withdraw insurance because they think there is no need for it. It can also cause organisations not to properly understand that they still have responsibilities. Again, I emphasise that there is nothing in any announcement on the part of the Treasurer or anyone else from the government benches about that important issue.

In that meeting Ms Herman emphasised that the biggest insurance claims to the non-profit sector are motor vehicle accident (which does not apply in this state because we have a compulsory third party system), industrial relations issues and, in particular, sex, age and race discrimination cases. They are the biggest claims, according to her, in the United States and not the poor old fellow who injures himself in an accident that is causing the dramatic increase in premiums there.

I also met with the Executive Director of the National Centre for Non-profit Law. Again, he emphasised the importance of running workshops for organisations on insurance, delivered in tandem with lawyers and brokers, to ensure that everyone understands the situation. He also emphasised that a great opportunity exists for non-profit and other industry groups to package their insurance needs as a group to ensure a better premium outcome. Again, this Treasurer, in between overseas trips and going back over his budget—

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: I do not know—I haven't seen any evidence of what this Treasurer has done when overseas. I simply see a half-baked, half-thought-out system of response to insurance premiums that has totally and utterly ignored occupational health and safety. I know the honourable member is blushing in embarrassment because he did not think of it himself, but I am sure that when he goes back to the caucus meeting next Tuesday he will give the Treasurer the rounds of the kitchen for not considering this issue.

I went and saw Mrs Audrey Alverado at the National Non-profit Association, who again emphasised the importance of insurance and training, and risk management is only just part of this package. I also saw Johanna Chanin, the Assistant Vice President and Not for Profit Underwriting Manager of Chubb Executive. Chubb is the biggest underwriter in the world in this area of insurance. She said that risk management education is absolutely vital to developing an appropriate system in trying to keep premiums down. When I mentioned to her that in Australia we do not have contingency fees and, if plaintiffs lose, they have to pay defendants' costs and that judges alone make decisions and not juries, she made the comment that she thought we were in insurance company heaven in Australia compared with the legal environment in which they have to operate in the United States. That is why I am probably a little cynical about some of these legislative responses that the Treasurer in his five-minute thought process has come up with in relation to this issue.

She said—and she provided me with the documentation to this effect—that the biggest claims in relation to non-profit bodies, and I would assume recreation would be a fair proportion of non-profits, are employment related issues such as discrimination and wrongful dismissal. So, again, there is nothing in relation to those two specific areas, yet we seem to be going on a legislative frolic, particularly in relation to the other two bills, without any understanding of what impact it will have on insurance premiums.

I will not bore members with details of every single meeting. I think I had 30 or 40 meetings during that visit, and on every occasion the importance of risk management and risk management training was emphasised to me. But, notwithstanding that, this Treasurer seems to have totally and utterly missed the point. Indeed, it is a point that was strongly emphasised when the volunteer protection legislation was passed by parliament last year. I know that some members think I am being repetitive, and it has been said on so many occasions. I think this Treasurer ought to just sit down, stop prancing around and actually confront some of these very difficult issues.

Indeed, the National Summit on Youth in Sport, which I had the opportunity to attend, had a whole session on the fact that volunteers, coaches, officials and parents have to go through a training program on codes of conduct. In relation to this bill, there is absolutely nothing from the Treasurer about what he and the minister propose to do to ensure that people are properly educated. I also spoke with one of the United States' largest insurance brokers Arthur J. Gallagher and Co. and that firm again repeated that the biggest growth in claims relates to auto and road claims, which is irrelevant so far as this state is concerned, law enforcement claims, civil rights claims, workers compensation claims—again not relevant to this state—and athletes' injuries, and coming along quickly behind them are sexual harassment and molestation cases—again, not a lot to do with some of the issues being raised in this bill. So, can I say that based on my experience the minister, to a large extent, has missed the point.

I also want to raise another issue in relation to a limiting of liability, and this in particular is in relation to sports officials. The other day a ministerial statement was given, I think by the minister for sport, denouncing and decrying the increased incidence of violence on the part of parents in relation to sporting activities. Indeed, in the United States they have had national conferences on that topic, and on the topic of people wanting to sue sports officials, for all sorts of things in relation to sporting activity. A large number of cases have been fought in the United States where someone has been injured and a sports official has been sued on the basis that because of their conduct a participant became injured.

Mr President, I am sure you played cricket in your younger days, and I have no doubt you would have had the opportunity to play cricket on a turf wicket, and no doubt you would recall that there is the odd occasion when you are kicking around, you know the sky is clear, the pitch is wet and you are all arguing with each other about whether or not the game should proceed. I know that at the end of the day it is a matter for the individual to make that decision. However, in the United States we are seeing a trend towards litigation in that area. A number of the United States jurisdictions have passed laws to protect sports officials from liability, and I think that is another issue that needs to be looked at.

The Hon. R.K. Sneath: Did you go and see a cricket game while you were there?

The Hon. A.J. REDFORD: The honourable member has obviously not travelled far and wide. Not a lot of cricket is played in the United States. I suggest that he broaden his education by switching on Channel 10, because we get a run of American television programs, and that will give him some idea about the culture that might exist in the United States.

In any event, in 1987 Governor Bill Clinton passed legislation which protected athletic officials and other officials during any amateur or athletic contest under the auspices of a non-profit or government entity and protected them from any personal liability. So, in between overseas trips and other activities there is another issue which the Treasurer might seriously consider. It would certainly be far more productive than some of the things he has been involved in, as outlined by my leader in a contribution less than an hour ago.

There are other issues, and I will be happy to meet with Treasury officials on this. It would be nice if the Treasurer did not think he was the font of all wisdom in this state. He will get past that—or we are all hoping he will—for the benefit of this state. There are certainly opportunities in relation to horse activities in the United States. There are a number of bills, such as the Equine Activity Liability Act, a Sports Volunteer Immunity Act and acts protecting owners of sports stadiums.

There is also significant legislation protecting food donors and substantial programs in the United States where expired food, which we know is still reasonably safe for human consumption, can be given to charitable groups without the prospect of people being sued subsequently. There is legislation for volunteer health care providers, also good Samaritan legislation covering telephone advice and the like. There is also important legislation in relation to trade associations. I think that is a very important area that we will need to deal with, and I think we will need legislation that extends this regime into that area of trade associations. Again, I know the Treasurer did not put any submission to Helen Coonan's national summit. I am not sure why; perhaps he knew it all—

An honourable member interjecting:

The Hon. A.J. REDFORD: She had to be, because he wasn't giving her any advice. I put in an FOI asking what submission this government put to that conference, and the answer came back, 'Nothing'. The Treasurer jumped on a plane, flew over, had a wonderful time, smiled at Helen Coonan, came back and said, 'I know how to keep out of trouble: I'll tell the world she's a good minister.' Unfortunately, he will have to do a bit better than that. I mentioned trade associations. Another area of growth in litigation in the United States can be demonstrated by a case that took place in relation to the American Swimming Pool Association.

As is commonly done in the United States, the American Swimming Pool Association produced a set of standards as to how a swimming pool ought to be constructed. Unfortunately and tragically, a pool which was constructed precisely in the manner which the swimming pool association had recommended and which was the industry standard at the time happened to cause some injuries to a young child. The child sued, the technology had improved in that time, and at the end of the day the association was found liable, and now we are finding that associations are reluctant to give their industries appropriate industry standards. I think that is another issue which I am sure this Treasurer will not look at, but the federal government might consider extending exemptions under the Trade Practices Act to ensure that trade associations can get on and do their important work. Based on past performance, I certainly would not expect this Treasurer to come up with anything constructive like that.

The Hon. T.G. Roberts: I can see a consultancy coming up here.

The Hon. A.J. REDFORD: 'Consultancy' is my favourite word, but I understood it was a swear word among members opposite, yet it came out so quickly and smoothly and just rolled off the minister's tongue. In any event, I have made a number of points. I know that the Treasurer will be too busy to read this contribution, but I think he ought to take up these very important issues of risk management because, without them, this legislation will do nothing. At the end of the day, risk management, Mr President, as I have heard you argue on many occasions in this place, is in no different position than occupational health and safety, and we know how critical occupational health and safety is in relation to our employee liability legislation. It is just as important in this area.

I fully endorse the comments of the Hon. Robert Lawson that the development of a code of conduct is a legislative act, and we on this side will do our best to ensure that the passage of a code of practice is not simply just an executive act. It ought to receive some form of parliamentary imprimatur through the regulatory process. I am not keen on a section 26AA situation, because people will be acting on and following these codes, and parliament might seek to intervene after they come into force. I do not think in this case that would be appropriate. I think the Legislative Review Committee and the parliament have in the past demonstrated a capacity to deal with these things, unlike in other areas, in a timely fashion and I think that we at least should give that a go.

So, with those constructive comments, I congratulate the government in going a short way towards dealing with this issue but, given the limitations of the Treasurer, it has a long way to go. Can I make one final suggestion to the government while I am on my feet?

The Hon. T.G. Roberts: Make it quick.

The Hon. A.J. REDFORD: I will make it quick. I suggest that the Treasurer stick to being Treasurer and that this job be given to someone else in cabinet such as the Hon. Michael Atkinson, the Attorney-General.

The Hon. Carmel Zollo: They probably won't take your advice.

The Hon. A.J. REDFORD: Well, that is the problem. The honourable member interjects: I know they will not take my advice, and that is why I am making this contribution now. If my advice had been taken, my speech would have been very short. I would have been congratulating the government and singing its praises from on high. But, unfortunately, it did not listen; and, yes, I agree with the Hon. Carmel Zollo, that this mob has form—they do not listen—and that is why this has been a lengthy and repetitive contribution.

The Hon. R.K. SNEATH secured the adjournment of the debate.

ADJOURNMENT

At 10.43 p.m. the council adjourned until Wednesday 21 August at 2.15 p.m.