HOUSE OF ASSEMBLY

Thursday 17 October 1996

The SPEAKER (Hon. G.M. Gunn) took the Chair at 10.30 a.m. and read prayers.

SOCIAL DEVELOPMENT COMMITTEE: PROSTITUTION

Mr LEGGETT (Hanson): I move:

That the final report of the committee inquiry into prostitution be noted.

The Social Development Committee has now tabled its final report on prostitution. The committee has spent over two years investigating this controversial issue, reading submissions, hearing evidence from witnesses and gathering information from around Australia and overseas. It has been demanding work, and I pay tribute to my colleagues on the committee for their dedication and harmonious interaction, even though we were not able to come to a unanimous decision. There were six members on the committee and three reports. The so-called majority report was supported by three members, and there were two minority reports.

The majority report includes valuable information, as does the minority report A. However, both of these reports recommend changes to the law which would involve either outright legalisation of the prostitution trade with registered brothels operating openly, as suggested in the majority report, or legal small brothels and decriminalised large brothels with prostitutes under an industrial award and WorkCover as recommended in minority report A. I believe that both sets of recommendations ignore important evidence given to the committee which would not be in the public interest. As my colleagues the members for Spence and Hartley pointed out on page 146:

The two groups who have to deal with prostitution and its consequences most regularly, the police and the Salvation Army, were opposed to changes to the law that would make prostitution a legitimate business.

I was disturbed to see that neither of these reports gave adequate acknowledgment of the police report on prostitution tabled in this House early last year by the Minister for Police. I have therefore included significant sections of the police report in my minority report, because I believe this carefully researched and documented police evidence deserves much greater consideration than that of some others who appeared before us. The majority report states on page 43 that the committee was not provided with any evidence of police corruption in relation to the sex industry in South Australia. The members for Spence and Hartley emphasised this on page 152, as follows:

The committee waited for evidence of police corruption in South Australia but it never came, despite there being every incentive for advocates of legalisation to make the allegation in the secrecy of the hearings.

This proven integrity of our South Australian police is something to guard most carefully. I believe that our police force can hold its head as high as and perhaps higher than any other police force in the country. We have a force which gave evidence, tabled in this Parliament, of how our current prostitution laws, even though less than perfect, have nevertheless been used by police to thwart an effort by organised criminals to get involved in the brothel business. The minority report (report A) states on page 153:

Given the lack of corruption found in an outfit such as Operation Patriot that has been dealing with the prostitution trade for years, it is remarkable that the majority of the committee seek to remove the police from regulating the prostitution trade and replace them with novices such as local government officials and State public servants who do not have the official discipline and formal accountability of the police.

These are wise words. I was therefore amazed to find that minority report A seemed to ignore its own advice by recommending the legalisation of small family home brothels which would be able to operate in residential areas, free of police interference and controlled only by local government officials. What an invitation this is to organised crime which we are told is already using the decriminalisation of marijuana to organise large crops of the plant grown in small lots in private homes.

For the organised crime reaction to the majority recommendations of the legal registered brothels in designated areas, we need only look at the Victorian experience of similar laws. Melbourne journalist, Tom Noble, in his chapter on legalised vice in a book, *Inside Victoria*, by Bob Bottom (Pan Books 1991) shows that corruption connected with the sex trade is still rife in his State. Tom Noble details corruption of council officials, the use of front men to cover for the criminal owners of registered brothels, the use of legal brothels to launder illegal money, and the exploitation of women in legal brothels. Moreover, as minority report A points out on page 148, illegal unregistered brothels make up two thirds of the Victorian brothel trade. All problems which legalisation was supposed to eradicate continue there with a vengeance. I believe we need to take note of the words of former South Australian Attorney-General Chris Sumner in his speech in another place on 29 April 1992 when issues pertaining to prostitution were first referred to the Social Development Committee. Mr Sumner said:

I believe that there is general acceptance that prostitution is an activity which is based on exploitation. While some prostitutes may be completely free agents, most are forced into it for economic reasons. They are often exploited because of the activity in which they are involved. It seems to me, that being the case, the overwhelming policy objective should be a reduction in the incidence of prostitution in so far as that is practicable.

There is no doubt that we are dealing not only with the exploitation of prostitutes but also the wives of the male clients who frequent brothels. These women are also being exploited. This clearly makes prostitution fundamentally anti-family.

I oppose the recommendations of both the majority report and minority report A for many reasons, but the fundamental reason is that I believe these recommendations would have the effect of increasing the incidence of prostitution and exploitation in South Australia. I recommend alternative proposals to reduce the incidence of prostitution by, first, updating the present law to make it more easily and more fairly enforceable and, secondly, helping prostitutes to leave the trade.

The majority report is reluctant to acknowledge the exploitation and harm which flows from prostitution. It briefly quotes a former prostitute who gave evidence that her three years as a prostitute had stripped her of any self-respect or decency, but seems to prefer the attitude of the researcher Matthew Goode who said, ‘Laws to protect prostitutes on this basis were paternalistic’ (page 51 of the report).

However, the most amazing thing about the majority report is its failure to acknowledge the international condemnation through the League of Nations and the United Nations

of the exploitative nature of prostitution throughout the past century. On page 52, the report briefly mentions the 1949 United Nations resolution on prostitution which Australia did not ratify, but ignores the 1983 United Nations convention on the elimination of all forms of discrimination against women which the Hawke Federal Government ratified in 1983, where Article 6 requires parties to suppress all forms of traffic in women and exploitation of the prostitution of women. The majority report not only fails to mention this convention but also recommends the repeal of those laws which currently fulfil our obligations. In contrast, minority report A states on page 150:

> We hope that the people who are so eager to incorporate every United Nations convention in domestic law by Commonwealth legislation support our recommendation that this clear United Nations resolution, affirmed as recently as 1983, be retained in our State law.

A number of examples of prostitution harm and exploitation are buried in the majority report. However, page 36 points out that in Thailand prostitution is part of the culture to the extent that nearly half a million Thai men use prostitutes every day. A woman adviser to the Thai Prime Minister, Dr Chutikul, was reported in the *Australian* (13 September 1995, page 7) as reinforcing this statement. She said that for Thai men using a prostitute is as common as 'having a cup of coffee.' She explained that this cultural acceptance of prostitution was a significant factor in the enormous problem of child prostitution in her country.

I believe that both the majority report and minority report A fail to recognise this factor. Both sets of recommendations, I believe, would lead to greater visibility and acceptance of prostitution in our culture. They both would legalise prostitution advertising in the press, for example, but even though they say they oppose child prostitution—and the committee was absolutely unanimous in condemning child prostitution in the strongest terms—the majority report does not appear to realise that the greater acceptance of adult prostitution would indeed lead to a greater incidence of child prostitution.

My minority report provides further evidence of prostitution harm. Professor Eileen Byrne of the University of Queensland wrote to the Queensland Criminal Justice Commission in 1991 about her experiences in the United Kingdom during the 1960s and 1970s, as follows:

> There has been 30 years of detailed and depressing evidence from children's departments of local authorities, from welfare departments, from the London Youth Service and from major social welfare agencies that organised prostitution targets the young homeless between the ages of 14 and 21, recruits them into prostitution and then sets them up so that they cannot get out of the system.

The public has been deluged by TV interviews with brothel madams who falsely claim that everything about the sex trade is love, sweetness and light. Given this media bias it is remarkable that the public opinion poll cited on page 57 of the majority report found that only 51 per cent of South Australians say that the sex industry should be legalised. However, the feedback I am getting from my electorate is rather different. People are saying that they do not want a small brothel operating next door (as per minority report A) and that they do not want brothels in the local shopping centres (as per the majority report).

In a recent *Advertiser* poll (24 August 1996, page 11) not one caller wanted a brothel in his or her neighbourhood—zero per cent. I realise that this may not be the most reliable form of poll, but how reliable are the others? It is my experience that many of those who say that brothels should be legal are really saying, 'I do not want to appear to be intolerant.' If you ask a further question, such as 'Do you want a brothel in your neighbourhood?', the answer is almost invariably, 'No way!'—just as the *Advertiser* poll found.

The people who live in Glynde and Woodville do not want brothels in Glynde or Woodville. The people who live in Unley would rather not have brothels in Unley, especially next door. If either Bill passes this Parliament it would be a retrograde step. In my minority report I have recommended some relatively small changes to the current laws, changes recommended by the South Australian police. These amendments would bring the laws up to date and make it easier to target the big criminals in the prostitution trade.

One simple update would include the words 'credit card' in the section mentioning money. Another needed change would address the problem of escort agencies. The majority report quotes evidence on page 87 that banning advertising is the most effective way of minimising the problem. I recommend banning all forms of advertising that relate directly or indirectly to prostitution, thus clarifying the present law and eliminating an offensive section in the *Yellow Pages* about which parents have complained to me. My recommendations would make it easier for the police to obtain evidence against those running commercial sex enterprises by increasing their powers to enter and search buildings suspected of operating as brothels.

The police would target the big criminals by enabling the confiscation of assets, as in the case of those convicted of drug trafficking. My recommendations would continue the current practice of charging clients who are found in brothels without reasonable excuse. Misdemeanours of this nature would be punishable by a statutory fine which could be paid by mail or contested in court, as would similar misdemeanours by prostitutes. Most importantly, I recommend that the Government take seriously the need to help young people leave the prostitution trade before they become entrenched in it. Neither the majority report nor minority report A recommends rehabilitation. How can the reports recommend it when the message they are sending to the community is that prostitution should be legalised or decriminalised and advertised in the papers, in other words, that prostitution is okay?

The people who work at the coalface, such as the Salvation Army and Teen Challenge, know that prostitution is not okay: it is tragic. These groups want to help the young people trapped in this lifestyle, and I call upon the Government to give them that assistance. I commend minority report B of the Social Development Committee to the Parliament, and I inform the House that I will be introducing a private member's Bill to implement its recommendation.

Mr SCALZI (Hartley): I also comment on this important report, and in doing so make it quite clear that I do not support the decriminalisation or legalisation of prostitution. I respect the member for Hanson's consistent moral stand on this issue, as I respect the member for Spence and other members of the committee. There is no easy solution to this longstanding problem and, as I said on another occasion, there are no perfect men or women but only women and men with perfect intentions, and this is what the report is about. Members of the committee listened to evidence from witnesses over the past two years and have come up with what we believe, according to our conscience, is the best solution.

There is no ultimate solution but we believe we have come up with the best approach to this problem. Obviously I support minority report A, together with the member for Spence because, after hearing all the evidence, it is the most realistic way to look at this problem in South Australia. Prostitution and its associated problems is referred to in the report and in the media as the 'oldest profession'. We hear about the sex worker and we hear about the sex industry, but I state categorically that I reject those notions. I believe that prostitution is not the oldest profession. If we look at prostitution in its proper perspective, it is the oldest social problem which has many associated problems. I am not running away from my moral stance, as the member for Unley suggests, and I am not moving away from what I have said publicly. I have heard the evidence, and every intelligent member of this House should look at the problem in its proper perspective, make an assessment at the time and report on the issue. I believe that the minority report is the most realistic way to look at this community problem.

Regardless of our moral stance or religious view, sexual intimacy in an ideal world is potentially the most intimate communication between human beings. In an ideal world, that is how it should be treated. Sexual intimacy enhances the well being of individuals and their self worth. However, I am also worldly enough to realise that the ideal world does not exist and that not all people are fortunate enough to experience the intimacy for which they yearn. Faced with the fact that some people do not experience sexual intimacy, we know that prostitution has existed, is existing and will always exist, and that reality cannot be changed. All that can be changed is how we respond and react to that reality. Our reaction is important. The response in minority report A is the most realistic response and I believe it is morally consistent with what we have stated previously.

Whilst I respect both the member for Hanson as a colleague and other members of the committee, I believe his stance is unrealistic. Minority report A includes justice in the solution to this pressing problem but it does not condone prostitution or condemn the victims—because this is a social problem—to a criminal record for life. That is not what we should do: that action ultimately does not reflect a just society. That method is consistent with my moral stand on this issue. Overall, the report has been an important breakthrough in giving us an analysis of the situation in South Australia. The committee heard from 62 witnesses and 17 organisations over two years and that, with the 600 page report, has given us a unique picture of the problem in South Australia, which is different from the position in other States. We do not have the street prostitution of Melbourne and Sydney. We do not have the same elements of criminal corruption as in other States and elsewhere in the world. The evidence suggests that there is no police corruption in South Australia.

Members interjecting:

Mr SCALZI: We have not had evidence of that. The evidence suggests that prostitutes are not the main carriers of disease or HIV. There is no evidence of that. The evidence highlighted the myth that prostitutes were performing a community service for the disabled. There is no real evidence of that: that suggestion was just a ploy to pull at the heartstrings of the community. We have heard evidence in that regard and there are no significant numbers of prostitutes involved in that area. The member for Unley looks at me in disgust.

Mr Brindal: You're misleading the House.

Mr SCALZI: I am not. There is no significant evidence: I did not say there is no evidence, but there is no significant evidence. We found that 70 per cent of the prostitution trade lies in the escort area and 30 per cent in the brothel area. We know it is safer for a prostitute in a brothel than in an escort situation. We understand that and presented it in the report.

An omission in the report, and something that we should have looked at, is that we did not put the whole State in perspective. We did not receive any significant evidence from the rural areas of South Australia and, in making laws which encompass the whole State, we have neglected that factor. The majority report provides for exempted areas, but how would these exemptions affect rural areas with their small populations and small towns? The stigmatisation and the disruption in the community are different from the situation in the metropolitan area. The report has been important in getting a better view of South Australia. I should like to read from a letter, which I received after the report was tabled, as follows:

> With reference to the Social Development Committee's report on their inquiry into prostitution, as a recent client of both massage parlours and escort agencies, may I offer the following comments. While aware of my own sins, I agree with the authors of minority report A (Mr Michael Atkinson MP and Mr Joe Scalzi MP) that the State should remain on the side of positive morality [and we have]. Legalisation—of even a small sector—sets a bad example, which might be followed by the worse one of the CES finding jobs for sex workers, as readers of the *Advertiser* were recently informed by the Reverend Fred Nile now occurs in Sydney. However, like Atkinson and Scalzi, I believe that prostitution offences 'should focus on the organisers of prostitution and the clients' and 'individual prostitutes [should be treated] more justly and kindly'. The rights of prostitutes should be protected, I submit, by the principles of (1) inclusion without legitimisation. . .

That is what our report is about, and that is one of the responses that I have received. I believe that it is the most reasonable approach for this ever-pressing problem.

The DEPUTY SPEAKER: Order! The honourable member's time has expired.

Mr QUIRKE (Playford): I would have liked the member for Hartley to have a bit more time, because he needs to do a bit of explaining, and so do a few other members of the Social Development Committee. We gave them a job, off they went and they have gone every which way. They have come out with a whole series of different recommendations. As I understand it, there is a set of recommendations for every member of the committee, and a few extra ones as well. Sadly, I do not really like any of them.

When reading my correspondence this week from the Festival of Light, I noted that there was a public call for prayer for the member for Spence and the member for Hartley to change their mind on some obscure piece of this report. I have news for everybody. I suspect that most members will not vote positively for any of these measures because, quite frankly, what we are getting from one end to the other is another bureaucracy.

Mr Atkinson: Not in minority report A.

Mr QUIRKE: In fact, that sums up the problem. As I have said in this Chamber before in respect of prostitution, when we start to set rules and guidelines for this sort of thing, we inherently have a number of problems. I remember the Bill that was introduced some time ago by the member for Unley, who honestly tried to deal with the problem along the lines of the Canberra model. He intended to bring in a whole series of measures that would have required an enormous

bureaucracy. It involved registration, a prostitution assessment board, and all the rest of it.

Mr Atkinson interjecting:

Mr QUIRKE: Unlike the member for Spence, who interjects, I have decent parliamentary manners, and I wanted that Bill to go into Committee so we could knock some shape into it, but the member for Spence was not interested in having a free examination of it.

Mr Atkinson: That's right.

Mr QUIRKE: He has just confirmed that. Instead, he went to the Social Development Committee and is responsible for minority report A. I want to make crystal clear to members what the law in South Australia is at the moment, and I want to take to task on this matter a couple of members who say that there is no police persecution of brothels in South Australia. I do not know what planet they are on, because I can tell members two things about that. First, in every other State prostitution is seen largely by the police as a victimless crime and, unless one is a religious zealot who believes in all sorts of things that are not in the mainstream of the community, that is a correct assessment.

The police have better things to do with their time and resources than perform the sorts of duties which they perform in South Australia and with the zealotry which members will not find in any other jurisdiction. I leave it wide open as to why that is the case. I do not know, but I believe that the enforcement of this law in South Australia leaves open the suggestion as to why that happens. I take no position on it; all I know is that I would prefer the police to be performing more sensible duties with those resources than they are performing currently.

I also suggest that problems arise whenever Governments legalise any kind of brothel or prostitution or move down the decriminalisation road. It is suggested that these businesses are quiet and usually the people who are involved try to ensure that they do not upset their neighbours. Sadly, that is not my experience. There have been a number of brothels in my electorate. I remember one in particular where the Gypsy Jokers set something up in Pooraka and it involved a very large amount of activity, including robbery, the drug trade and, as I understand it, a fair number of Chinese submachine guns. There was also another massage parlour in one of the streets in my electorate. However, the street had parking for approximately 20 cars, but that took care of only the morning shift. So, residential areas are not the place for brothels, whether or not they are a very aggressive one person brothel. They need to be extremely careful where they place these brothels.

I am loath to vote—and this will sound strange—for many changes. In South Australia, where these businesses emerge and they are a nuisance, I would like the police to have the ability to do something about it. For example, when I ring them up and say that no-one can get down Smith Street, I would like something done about it. On the other hand, I take the view as an adult that, if someone wants to sell or buy sex, provided that does not interfere with anyone or anything else around the place, that it is their business. I would have hoped that the members of this committee, as adults, would come down with a range of options that would give me something to vote for. I have not yet seen anything in this whole report for which I can vote.

Quite frankly, I think the present arrangements are better than what is being suggested. I am saddened by that because, obviously, a number of people in our community—some of the zealots—managed to get hold of some of the members of this committee and give them a bit of curry. The sad thing for the member for Spence is that the people for whom he did some work on the side are praying for him now because he did not do enough.

The Hon. Frank Blevins interjecting:

Mr QUIRKE: According to the member for Giles, the honourable member obviously was not as big a zealot as some of the zealots would have liked. At the end of the day, I am disappointed with this whole exercise and what has come out in the report. I am disappointed that we will not see a complete wiping of the laws in most of these areas except where it concerns residential areas. I am also a little disappointed that there is not a strong statement to call off the dogs in relation to these matters and therefore use police resources, which are much reduced now compared to what they used to be, to chase all sorts of criminals.

I will talk about one other aspect. Many members, particularly when debating the Brindal Bill last year, had some concern about, dare I say it, quality control in brothels. In fact, one of the suggestions was that a person should be fined if they did not wear a condom. I must be on some other wavelength, because it seems to me that, if somebody has a chance of getting a death sentence, a $500 fine will not make much difference. If the potential for contracting a transmitted disease such as HIV/AIDS does not deter a person from not wearing a condom in these circumstances, I do not think a $500 fine or any other penalty will make much difference. I cannot see it, somehow. If we had given Ronald Ryan the option of the rope or a $500 fine, I am sure I know which one he would have chosen.

I advise my colleague the member for Spence and others here that I will support the second reading so that the Bill can go into Committee. I will take a good look at their proposals, but they will have to do a lot more to convince me that these solutions are better than prevention. As I understand it, one suggestion that is doing the rounds is the idea of introducing on the spot fines for people caught on brothel premises. I cannot think of anything more draconian, and I will have more to say about that if it should emerge during the Committee debate.

Mr ATKINSON secured the adjournment of the debate.

DAYLIGHT SAVING

The Hon. FRANK BLEVINS (Giles): I move:

That the regulations under the Daylight Saving Act relating to dates 1996, gazetted on 11 July and laid on the table of this House on 23 July 1996, be disallowed.

I move this motion for two principal reasons.

Mr Oswald: I think we've heard this speech before.

The Hon. FRANK BLEVINS: The member for Morphett says he has heard this speech before. That is true, and he will hear the speech again, because the member for Giles is supporting his constituents, and as long as the member for Giles is in this place he will continue to do so. If the member for Morphett and other members opposite choose not to support their constituents that is their business, but I will give them the opportunity to do so again and again. I thank the member for Morphett for his interjection.

As I said, I move this motion for basically two reasons. The first is that I believe that what is occurring on an annual basis in gazetting this extensive increase in daylight saving is against the spirit of the Act that was agreed to at the referendum. There was a referendum, the results of which I

have no doubt my constituents now regret. However, there was a referendum and, as far as I am concerned, until there is another expression of the people's will, we must go along with it.

The Government has abused the quite sensible provision in the Act that allows for varying the span of daylight saving, by establishing a permanent extension of three weeks to daylight saving. I would argue that that was not the intention of the Government when the Bill went through Parliament. It is something that this Government, in my view, has abused.

I attempted last year to remove that provision from the Act, so that if the Government wanted to change the dates for daylight saving in a significant way then it would have to change the Act. There has to be good faith in these things and I am willing to go along with the results of the referendum, but I am not willing to go along with the extension on a permanent basis, which is contrary to the spirit of what the people of South Australia voted for.

Every single Government member voted against my legislation to prevent this kind of abuse of the daylight saving provisions. Not one Government member supported me, irrespective of the areas that they represent in South Australia, and irrespective of the views of their constituents. Not one Liberal Party member of this House supported the Labor Opposition in attempting to remove this provision that the Government abuses. I was very disappointed about that, as were my constituents, particularly on the West Coast. They made it very clear that they wanted what I was doing to succeed and they are very disappointed in the attitude of members opposite in voting against that private member's Bill.

The second reason I am opposing these regulations is that my electorate does not want them. If anybody believes that the opposite is the case, then they are dreaming. My electorate is bitterly opposed to this extension to daylight saving. They wear daylight saving because they have no option. They were outvoted in a referendum and they are not happy to wear it, but they understand our system of democracy and they wear it, and they know that that is something they have to do. But my electorate, quite clearly, does not agree with this extension.

Every other year we have to put up with an extension for the Adelaide Festival of Arts and I have never understood why that should be so. I was not sure what the Adelaide Festival of Arts was doing that required daylight in which to do it. I would think that they are able to do whatever it is they want to do without imposing three weeks of extra daylight saving on the rest of us. Nevertheless, that became routine and, again, my electorate had to wear that—this is for the Adelaide Festival of Arts, bear in mind, not the South Australian Festival of Arts.

Now what this Government is doing is extending daylight saving because Jeff Kennett holds the Moomba Festival during the period of the extension. I have said before that my constituents in Cowell, Kimba and Buckleboo are not the slightest bit interested in Jeff Kennett or the Moomba Festival and certainly not in an extension of daylight saving to accommodate them. They do not care a great deal about the Adelaide Festival of Arts, never mind the Moomba Festival. Why does South Australia have to fall in line with Jeff Kennett's desire to hold the Moomba Festival at that time? I do not know what they do at the Moomba Festival which requires an extra hour of daylight at night; but if Jeff Kennett wishes to do so, that is a matter for Victoria. I do not see why my constituents on the West Coast have to wear the extra three weeks of daylight saving because of some festival that is half a continent away—probably 1500 kilometres away. It is of absolutely no interest to my constituents, nor should it be.

The member for Gordon yesterday in his Address in Reply contribution made a speech that I would have appreciated if he had made it three years ago when I was making speeches in precisely the same words. I would have had a greater respect for the member for Gordon's argument had it not been made so late. The member for Gordon was complaining about Governments—and, fair enough, he castigated both Federal Liberal and State Liberal—taking away services from Mount Gambier. I have been standing up here complaining for the past three years about this Government, the Federal Labor Government and now the Federal Liberal Government taking away services from regional South Australia on a daily basis.

And I have had no support whatsoever: none at all, with the exception—and I always have to concede that there is an exception—of the member for Eyre who, from time to time in the press, the only real area in which he has a voice, has supported me on some of these issues and certainly on this issue of daylight saving. Apart from the moral support of the member for Eyre, not one other member of the Liberal Party has given me the slightest bit of support on any of these issues. When the teachers have gone from the rural areas, along with school assistants, EWS workers, and highways workers—all these people have been pulled out of all our country towns and provincial cities—not one complaint was heard from members opposite, and certainly no complaint from the member for Gordon.

But last night the member for Gordon said that he was speaking for rural South Australia. Governments have done all that to us: they have taken away almost all our services. Let us not at least compound the problem by inflicting on those people who are left in regional South Australia an extra three weeks of daylight saving that they do not want. I want the member for Gordon and other members opposite who profess to have some regard for rural South Australia to join with me and at least get them this minor victory of not having to put up with this imposition on their lives. I do not think it is too much to ask.

I conclude with the statement that I regret that it is necessary to move this motion. My colleague the Hon. Ron Roberts is moving it in the Upper House. I regret it because it should never have come to this. The spirit of the referendum ought to have been maintained and not abused in this way.

Members interjecting:

The Hon. FRANK BLEVINS: I have absolutely no doubt that every country member of the Liberal Party in this place will vote against this motion. Not one of them will come and support me. I know that in this Chamber this motion will go down, but the Hon. Ron Roberts is moving the same thing and I think giving almost the same speech in the Upper House.

Members interjecting:

The Hon. FRANK BLEVINS: Because we think as one on this issue, as do our—

Members interjecting:

The Hon. FRANK BLEVINS: I don't even write my own, let alone for someone else! Our constituents think as one. It may well be that these regulations are finally going to be bowled over in the Upper House. If they are, I would think that that would be a legitimate expression of the will of Parliament, and I want all my constituents and all the

constituents of members opposite to contact their members of Parliament and let them know that if the Parliament knocks off those regulations they do not want the Government, by a miserable sleight of hand, to attempt to introduce them again and attempt to have that dreadful extension of daylight saving, that undemocratic extension of daylight saving, put into place against the will of the Parliament. I know that all my Labor colleagues will be voting with me. I urge all members, particularly members opposite who profess to have some sympathy for people living in rural areas, to support me in opposing these regulations.

Mr MEIER (Goyder): It was interesting to hear the contribution by the member for Giles. It brought back memories of sentiments expressed a year ago and two years ago. We are getting used to the member for Giles introducing this objection to the proposed regulations. I was interested to hear that a similar motion has just been moved in another place and that the Hon. Ron Roberts will be speaking to it. I am sure that the member for Giles would have done the courtesy of showing the Hon. Ron Roberts his speeches from the past, and much of what the member for Giles said today echoed those sentiments, which I think he acknowledged earlier.

If I felt that the member for Giles was serious about this matter, I would be happy to give it serious consideration—no question—but it is without doubt hypocritical of the member for Giles as a member of the Opposition to seek to oppose these regulations when one month and six days ago the then Acting Leader of the Opposition, the current Deputy Leader of the Opposition (Mr Ralph Clarke), in responding to a call from the Victorian Premier (Mr Jeff Kennett) a few days earlier for South Australia to go to Eastern Standard Time, accepted the move and indicated that South Australia should follow the call by the Victorian Premier and go to Eastern Standard Time.

So, on the one hand you have the member for Giles—a member of the Opposition—seeking to oppose the extension of daylight saving and on the other hand you have his Deputy Leader doing exactly the opposite and saying, 'We should have half an hour of daylight saving for the whole of the year. Don't worry about the five-month period; let's have it for the whole of the year.'

The Hon. Frank Blevins: Vote against him and vote for me.

Mr MEIER: The member for Giles is indicating that the Deputy Leader of the Opposition did not have the support of his Party. If that is the case I would hope that the Party would deal with that in its own way in Caucus, and we will look forward to welcoming a new Deputy Leader, who may stay in that position for some time.

The Hon. Frank Blevins interjecting:

Mr MEIER: Unfortunately for the member for Giles, he knows that he cannot have it both ways. The member for Giles referred to the referendum in 1982. It took place on 6 November, the same day that I was elected to this place. I well remember that referendum. It is interesting to look at the figures because, out of the 47 electorates, only four had a majority vote in favour of daylight saving. Those four electorates were: Flinders, with 55.29 per cent against daylight saving; Goyder, 56.7 per cent; Mallee, 54.71 per cent; and Rocky River, 53.97 per cent. I will be the first to admit that daylight saving disadvantages rural constituents, and I know that my constituents are far from happy with daylight saving. In fact, they let me know regularly and certainly, now that it has been announced again for this year, quite a few people have expressed to me their total disapproval of the extension of daylight saving.

I sympathise fully with them because I understand the problems they face: it is unfair to many in the rural sector, particularly those who appear to provide the majority of the income from that sector. There is no question about that at all, and that aspect disappoints me. However, the rural sector realises that at least there was the opportunity to go to a referendum, but unfortunately that was not passed. In fact, the final vote showed that 70.09 per cent of the people of South Australia wanted daylight saving and 27.77 per cent did not. So, we were in the minority—there is no question about that.

Mr Atkinson interjecting:

Mr MEIER: The member for Spence interjects that they did not know that it would extend through to the Moomba Festival. Members would recall that, soon after we came into Government, our Premier, together with the Premiers of New South Wales, Victoria and Tasmania, agreed that daylight saving should start and finish on the same day. The reason for that was very simple: we had reached the absolutely ridiculous situation of having a multitude of time zones towards the end of the daylight saving period. I recall reading an article in the *Advertiser* of 27 February 1994 entitled 'Daylight saving mayhem', which identified the multitude of time zones involving South Australia at the end of daylight saving. The current situation is that at least the Premiers of the key States have agreed that we should start and finish at the same time. Of course, States such as Queensland and the Northern Territory are still out of it, and Western Australia is significantly different. So, we have made advances in that respect.

It is amazing that the member for Giles has moved this motion when his Deputy Leader has said that we need more uniformity throughout Australia and that we should not have different time zones. He wants South Australia to go to the same time zone as Victoria and New South Wales. I cannot accept the Deputy Leader's call, and I have made my views known on that. I am totally opposed to our following Eastern Standard Time. If anything, Victoria and New South Wales should come our way, because the time line is very close to the South Australian border, or we could have a special central time zone, which would be sensible. The United States of America has four different time zones on the mainland and, if Hawaii is included, it has a fifth. I think that Alaska forms part of the four time zones.

Mr Deputy Speaker, on several occasions the member for Giles referred to your electorate. I was interested to see the figures for Mount Gambier (formerly the name of your electorate, now the District of Gordon): they show that in 1982, 70.6 per cent of the people were in favour of daylight saving whereas 27.42 per cent of Mount Gambier electors were opposed to it. I am surprised that the member for Giles highlighted on more than one occasion that the member for Gordon ought to heed these views. He could, but there is no question that 70 per cent is a significant number.

The Hon. Frank Blevins interjecting:

Mr MEIER: Yes, but I have just explained that the extension was determined so that we will not have a multitude of time zones during those weeks. This motion is in direct conflict with what the Deputy Leader of the Opposition said earlier about trying to get some uniformity. I cannot support the argument put forward by the member for Giles even though I acknowledge the negative effect that this is having on country areas. It is a pity that the member for Giles and his colleagues did not take the advice of the Leader in

1994 when he asked members opposite not to be negative, not to be a carping Opposition and not to become stuck in the groove of opposing every Government initiative for the sake of it. Here again we see that coming out today.

The Hon. Frank Blevins: I support my constituents.

Mr MEIER: With regard to the honourable member's constituents, I note that the figures for Whyalla and even—

The Hon. Frank Blevins interjecting:

Mr MEIER: Well, Whyalla would constitute a lot of your constituents, and 73.52 per cent voted that they wanted daylight saving in 1982—so I rest my case.

Mr VENNING (Custance): I was not going to speak to this issue. It was brought before the House only as a divisive motion purely to cause strife. This is the third time we have seen the honourable member introduce this Bill, and the honourable member is nothing but a hypocrite: on the one hand he is opposed to daylight saving while on the other, in the same breath—and this was contained in a second motion—he wanted our State to go to Eastern Standard Time. That is totally hypocritical, and I cannot understand what the honourable member is all about.

I am concerned about the extension of daylight saving. I would be happy to solve this problem by our going to a true Central Standard Time, with our original time zone of one hour's difference for this State. If members drive across other countries—as members of Parliament sometimes do—and go through different zones, they will find that time zones are always an hour. When you come to Australia you find a difference of half an hour for central Australia and a difference of 1½ hours for Western Australia. It is total nonsense.

I happen to do more business with Perth than I do with Sydney, so why should we not move to the true meridian of an hour from Sydney and an hour from Perth? That is commonsense. We should line up with more of our Asian trading partners—Indonesia, Malaysia and Singapore—that are on that meridian. It is an absolute farce and an absolute political trick for the member for Giles to come in here and cry crocodile tears over this motion. It is purely a crafty trick from a crafty politician who, in his last days in this place, thinks that the member for Custance and others—

Mr FOLEY: I rise on a point of order, Mr Deputy Speaker. The honourable member is clearly impugning the character and motives of the member for Giles. That is totally inappropriate.

The DEPUTY SPEAKER: Order! There is no point of order.

Mr VENNING: I would have thought that the word 'crafty' is almost a compliment to the member for Giles. He would see it as a compliment; he is a politician of great experience, and I can understand why he keeps bringing this measure back in here. Certainly, many of my constituents are opposed to the extension of daylight saving. As a member of Government, I have to govern for everybody. As I said, the way to solve this is to go to true Central Standard Time, back to the original time meridian we were given. I have forgotten what that was, but it would be in about the centre of the State. The meridian that we currently use is actually in Victoria. I cannot understand why, in this modern age of technology, where we have FACS machines, e-mail and everything else, we hear this argument from the member for Giles and from others that we should go to Eastern Standard Time. The Premier of Victoria does the same thing. He derides us by asking, 'Well, why don't you join us on the same time zone?'

Australia is a large place. I fully understand why people in the western part of our State become very concerned when we change the clocks, because it means that their children go to school in the dark and go to bed in the daylight. People in Adelaide do not understand that. If members went along with my idea, we would put the clock back half an hour during daylight saving. I fully support that idea. However, what I will not support is the member for Giles's political trickery and I certainly do not support the motion.

Mr FOLEY (Hart): I was not going to speak on this motion, either, but feel compelled to do so after having listened to that (to quote the Minister for Infrastructure) arrant nonsense—

Mr Atkinson interjecting:

Mr FOLEY: —and backed up by the member for Spence who has also put forward some nonsense arguments with respect to this issue of putting our clocks back half an hour for Central Standard Time. It is a nonsense argument. Ninety per cent of our business is with the Eastern States of Australia. That is why we should move forward to Eastern Standard Time and align ourselves with the Eastern States. If we put ourselves into a time zone to align ourselves with our Asian markets, we would be catering for less than 10 per cent of our trade activity. That is a nonsense argument. This State derives the bulk of its economic activity by providing goods and services to the Eastern States of Australia. That is why we should be on Eastern Standard Time. This ridiculous argument that we should align ourselves with Central Standard Time takes no account of the economic good of this State. It is a nonsense argument.

The Opposition's position accords with that of Mr Bob Gerard and the employers' Chamber of Commerce—it is about the only issue on which we have common ground with Mr Bob Gerard. But it is what the Chamber of Commerce wants. I thought the Liberal Party was a Party of business, but it is not; it is a Party of silly ideas. I support the member for Giles's motion. Clearly, country members in this place have a right to stand up for their electorates and their constituents. But Liberal country members are not doing this. Time and again on rural issues it takes the member for Giles to come forward and protect the interests of country South Australia. The member for Custance, the member for Flinders, other rural members in the Chamber and others within the Liberal Party continually neglect the important issues of the country constituency which elected them. Members opposite simply adopt the Party line, do what the Premier says and, basically, let down their people.

If the member for Giles has to come in here month after month to try to restore that imbalance, so be it. It is totally inappropriate and offensive to suggest that he would have any motive apart from trying to do right by the people of rural South Australia. He is a member of great integrity who is motivated only by what is good for country South Australia. The suggestion that this is some divisive tactic to cause trouble in the Liberal Party is beneath contempt. For as long as the member for Giles is in this place he deserves respect for standing up for rural South Australia. When he is no longer in this place beyond the next election—should we still be in Opposition and, of course, that is an unknown—other members (and I am prepared to be one of them) will take up that challenge. I would ask members to support the member for Giles and not to introduce this nonsense argument of aligning ourselves with Central Standard Time, because it is a silly idea that should be totally discredited.

The House divided on the motion:

AYES (11)

Atkinson, M. J.	Blevins, F. T. (teller)
Clarke, R. D.	De Laine, M. R.
Foley, K. O.	Geraghty, R. K.
Hurley, A. K.	Quirke, J. A.
Rann, M. D.	Stevens, L.
White, P. L.	

NOES (26)

Andrew, K. A.	Ashenden, E. S.
Baker, D. S.	Baker, S. J.
Bass, R. P.	Becker, H.
Brindal, M. K.	Buckby, M. R.
Caudell, C. J.	Condous, S. G.
Cummins, J. G.	Evans, I. F.
Greig, J. M.	Kerin, R. G.
Kotz, D. C.	Leggett, S. R.
Lewis, I. P.	Matthew, W. A.
Meier, E. J. (teller)	Oswald, J. K. G.
Penfold, E. M.	Rossi, J. P.
Scalzi, G.	Such, R. B.
Venning, I. H.	Wade, D. E.

Majority of 15 for the Noes.

Motion thus negatived.

ECONOMIC AND FINANCE COMMITTEE: BOARDS AND COMMITTEES

Mr BECKER (Peake): I move:

That the eighteenth report of the committee on boards and committees—information systems and a public register be noted.

Consolidated data on boards and committees has been a long time coming. Boards and committees are responsible for the management of a large proportion of Government services and programs. They administer large amounts of public funds, yet until recently we have had real problems collecting the most basic information about boards and committees in an accessible format which can be used to produce a variety of reports for management information. Over the years there have been repeated calls for up-to-date and accurate data as there have long been concerns from both sides of Parliament about the difficulties incurred in obtaining reliable information about the number, status, membership and other particulars of statutory authorities, ministerial committees and semi-Government bodies. In fact, since I have been on the Public Accounts Committee (now the Economic and Finance Committee) we have struggled to determine accurately the number of statutory authorities in South Australia.

Members interjecting:

The DEPUTY SPEAKER: Order! The members for Unley and Ridley will resume their seats.

Mr BECKER: In the past, we endeavoured to find out from the previous Labor Government and the Tonkin Liberal Government an accurate assessment of statutory authorities in South Australia. It has proven to be one of the longest and most difficult tasks undertaken by any parliamentary committee. Although the Statutory Authorities Review Committee has brought down a report which endeavoured to ascertain the number of statutory authorities and committees, I do not know whether we have an accurate number. I believe that it is an indictment on the bureaucracy. As quickly as you get rid of a statutory authority, another one comes up or there is a need to establish more. Certainly, this Government has endeavoured to cut down the unnecessary numbers that we have had in the past.

When I was in Opposition, I was severely critical of the then Labor Government for its inability to produce to the Parliament a comprehensive and accurate list of statutory authorities. The Arnold Government responded by making a commitment in October 1993 to reform this area and promised that certain data would be made available to the public as well as to the Parliament.

On 22 June 1994 the committee adopted a reference regarding the information systems which are maintained in central agencies to support the boards and committees function of Government. The committee also resolved to support the development of a public register—a report which would include a range of data about all boards and committees and a limited amount of information about the members of such bodies which would be tabled in Parliament and which would then be readily available to the public. The committee anticipated that this would be a straightforward reference with little controversy involved. In fact, it proved to be a protracted and frustrating business. It has taken two years for us to obtain a full report with all the data we sought. We are very pleased that the information system has now been upgraded and that a booklet providing guidelines to directors and board members has been produced.

The new system—the Boards and Committees Information System (BCIS)—is a major improvement but will need to be adequately resourced to remain so. Some of the data will be kept up-to-date by electronic transfer from the Cabinet information system but, for the balance (almost half), the system relies on Ministers' offices, so that ministerial commitment to keeping this database maintained in an accurate and up-to-date form will also be required.

The Economic and Finance Committee has also been seeking a commitment to the release of a public register—a report produced from BCIS containing data about boards and committees and the names and remuneration of members of these bodies. This has been the most frustrating part of our inquiry. We have still not been able to obtain a commitment to a public register. We have been told that disclosure of information might discourage some very well-qualified people from sitting on boards. The committee considers that any person who agrees to serve on a public body must be prepared to have their name and level of remuneration disclosed. The report includes two recommendations of the committee: first, that the Government produce a public register report from BCIS, which should be printed and submitted to Parliament twice a year, and that the printed form should be made available to the public at the time of table. The report should be available for free public perusal at the State Library and other major information centres, and for purchase from the State Information Centre.

Secondly, the committee recommends that all Ministers make a commitment to allocating sufficient priority and resources from their ministerial and portfolio staff to the task of compiling, checking and updating information for the BCIS database and the provision of public register information. This is a matter of accountability. Hundreds of boards and committees are responsible for many billions of dollars of public funds.

Members of category 1 boards, such as those of the Tourism Commission, the MFP, the Electricity Corporation, WorkCover, the Housing Trust, the Motor Accident Commission, the South Australian Development Council, the SA Water Corporation, and about two dozen other boards, are

now paid from $8 196 to $25 123 per annum. Chairpersons are paid from $10 966 to $50 246 per annum. Even with the smaller bodies, where the members are paid sessionally (about $73 per four hour session), it is public money that is being paid in fees and public money that is being administered.

The committee is not disputing the fee level, nor that many members make a most valuable contribution. In fact, I personally believe and acknowledge that we are very fortunate in South Australia to receive the services of so many fine and gifted South Australians at such a low cost. Many South Australian company directors and persons involved in particular areas have been of great help to the State over many years, and their services obtained by Government, be it Labor or Liberal, have been on the cheap. But the people do that because they have pride in their State and they are proud to serve the Government of the day.

It is not widely known that public servants are not eligible to be paid fees when they serve on boards and committees, and that some eligible members waive their fees entirely as part of their contribution to the community. As I said, such is their pride in their State. The committee firmly believed that Parliament must be able to have access to any information it requires about boards and committees, and that it is in the public interest for the basic facts about these bodies, including the names and levels of remuneration of members, to be readily available. We, the committee, will continue to support the establishment of a public register as described in our report. I commend the report to the House.

The Hon. FRANK BLEVINS (Giles): In seconding the motion, I commend the committee for the work done on this matter, because I think this unanimous report is worthwhile. As the Presiding Member said, many millions of dollars of taxpayers' money are distributed and overseen by these boards and it is important that we know who they are, who gets paid what, and what they do. I congratulate the Government and the Department of the Premier and Cabinet on getting some kind of register together, because this is the first time it has been done.

True, it is not terribly accurate. The register is not even accurate about MPs and I am not sure that we can rely on the rest of it. Nevertheless, it is a good attempt because it is difficult to compile such a register, especially in respect of the small voluntary committees. Although much effort has gone into identifying them, I am not sure it is worth it. The amount of time and effort spent identifying minor committees and upgrading who is on them probably does not result in any public benefit. However, on the big committees where big money is being administered by committees, it is absolutely essential that there be some accountability and we know who the people are, how much they are being paid and what they are doing.

This was never an issue until the last few months because the information was always available about who was on committees, what they got paid and what they did. There was never any question about someone being on the public payroll and the public not knowing how much they got paid. That applies right from the top here in Parliament to the most junior employee. In the public sector, if people pick up a public sector shilling, the whole world is entitled to know about it because they are paid. That was never an issue.

But suddenly the Premier said that no-one is now entitled to know who is on these committees or what they get paid. That is an extraordinary position. In fact, I did not believe it at first when the committee was told of the Premier's view. I did not believe it and I said to some of my committee colleagues who have closer relations with the Premier than I do—although I am not sure that is the case, looking at some of them, so I will rephrase that: I said to some of the Liberal members of the committee—'Why don't you call the Premier to one side and mention to him that this is not on and perhaps he is being badly advised? Why make an argument when there is no argument in the first place?'

The word came back sternly from the Premier that it had nothing to do with the question of bad advice. The Premier did not believe that the people of South Australia had any right to know whether he was appointed to a committee and how much was being paid. End of story. That position is unsustainable: it is wrong in principle but it is also unsustainable. Even two or three minutes of thought would have shown that you cannot keep those things secret even if it were desirable to do so. Members of the committee are entitled to that information, they will get it and, when the report is presented to Parliament, all that information is available to any member of the public who wants it.

All the information about who is on the committee and all the correspondence from the Premier's Department is now publicly available. If any member of the public wants a copy of any of those documents, they can go to the committee secretary or come to me, for that matter, and I will give them the public documents.

Mr Brindal interjecting:

The Hon. FRANK BLEVINS: That is not true.

Mr Brindal: I think it is.

The Hon. FRANK BLEVINS: The member for Unley is entitled to speak in this debate. He is as supportive of the principle that this report expounds, that is, openness in government, as is the member for Florey, the member for Light, the member for Playford, the member for Hart and the Chair. We are all of a similar mind that what the Premier is suggesting is nonsense, is wrong in principle and is unsustainable.

I was astounded to have on my file a letter, which again is available to anyone from the public or the media who wants it because it is a public document, from the Chief Executive of the Department of Premier and Cabinet, Ian Kowalick. He has written in a very insulting tone to the committee, and I want to read part of the letter so as not to take all the time of the House. As I said, I have many copies of this letter should people wish to read it. The letter was directed to the research officer of the Economic and Finance Committee in response to a request for information on certain individuals, what committees they were on and what remuneration that position attracted. The CEO states:

> As you are aware it is Government policy to maintain the confidentiality and privacy of the BCIS database and not to provide public access to that system, particularly where information is specific to the individual, as is the case with fee structures which contain personal attraction and retention components.

That is bureaucratese for 'big dough'.

Debate adjourned.

Mr MEIER: Mr Deputy Speaker, I draw your attention to the state of the House.

A quorum having been formed:

SELECT COMMITTEE ON PETROL MULTISITE FRANCHISING

Mr CAUDELL (Mitchell): I move:

That the select committee's report be noted.

On Thursday 26 October 1995 in this House I moved for the establishment of a select committee to inquire into the actions of the oil industry in relation to multisite franchising. At that time I advised the House that what was proposed by the oil industry was dealer cleansing and annihilation of over 90 per cent of Adelaide service station dealers. Following the evidence provided to the committee, very little has occurred to change my opinion of the oil industry.

The select committee's terms of reference established by this Parliament were: whether dealers had been treated in a fair and equitable manner in the current offers by the oil companies to purchase back unexpired terms; whether the multisite franchising, as proposed by the oil industry, will result in a reduction in economic activity in South Australia; whether multisite franchising will have adverse consequences for consumers; whether dealer-owned service stations will be placed under threat by the multisite franchising; whether existing service stations will be able to renew franchise agreements; and whether multisite franchising contravenes any South Australian or Commonwealth legislation.

Since August 1995 some elements of the oil industry have been negotiating with the existing franchisees to terminate their franchise agreements so that multiple service stations can be grouped together under one single franchise. The committee was concerned, especially with only four major oil companies, that multisite franchises as proposed by the oil industry could lead to higher prices in the longer term. The committee also stated that, should the oil industry attempt to circumvent the committee's recommendations, the committee would recommend to the Government to consider legislation for the partial or full removal of the oil industry from the direct retailing of petrol.

From the evidence provided, the committee considered that the oil industry had not followed a consistent approach in relation to the purchase of unexpired terms of the franchise agreements. In these circumstances, there was overwhelming evidence that existing leases would not be renewed despite a history of good business performance.

This change in direction by the oil industry is the subject of class action before the Federal Court initiated by the dealer groups. The committee was concerned over the treatment of franchisees by the oil industry and would support the establishment of a franchise tribunal if the oil industry were to continue to treat franchises in the same manner.

The committee recommended changes to the oil industry's oil code and franchise agreements to include a process to be followed in the event of early termination of a franchise by the franchisor. The committee was advised that a strong, non-branded reseller group was important to ensure competition at the retail level. Only 18 per cent of Adelaide's outlets are independent (non-branded) compared to Melbourne with 30 per cent. The committee believes that an independent distributor-importer would contribute a fifth source of competition and would play an important role in petrol retailing in Adelaide.

The committee has recommended to the Government that, in order to achieve an independent distributor and reseller group, the following must occur: there must be transparency in fuel pricing with quarterly reporting in the daily newspaper of the minimum/maximum petrol reseller prices in metropolitan Adelaide and country districts, with the establishment of a terminal price exclusive of freight and available to all resellers; the role of the Petrol Products Retail Outlets Board recommending to the Minister for Industrial Affairs the siting of service stations should cease; Government assistance in the establishment of an independent fuel terminal importing refined products for distribution to an independent reseller group; and an end to the Laidely agreement which restricts access to fuel terminals.

The committee believes that these recommendations would ensure the attainment of an acceptable level of independent dealers and competition at the wholesale level, which would ensure the maintenance of petrol discounting in South Australia. The committee is aware that the Australian Competition and Consumer Commission is continuing to conduct inquiries into issues raised before its own inquiry as well as those raised before this committee, and therefore has recommended that statements and evidence given before the committee be made available to the ACCC and the Commonwealth Government for their examination.

A number of instances before the committee highlighted that dealers had not been treated fairly. We were advised of a Mobil dealer who, having been appointed as one of Mobil's multisite franchisees, sold the goodwill of his three sites to Mobil for $330 000 and in the same twinkling of an eye bought the franchises back from Mobil for $120 000, making a windfall gain of $210 000. That $210 000 happened to be the amount then required as a deposit for his establishment of these multisite franchises. He received $110 000 per site, compared with $20 000 to $30 000 per site received by the rest of the Mobil dealer group. In October 1994, a Mobil dealer purchased a franchise for $100 000, with Mobil's blessing. He was advised by Mobil that if his service station performed to normal requirements his lease would be renewed. In August 1995, he was told that his lease would no longer be renewed. He was offered $25 000 for his lease, compared with the $110 000 paid to the person who became the multisite franchisee, and of course the dealer has refused.

Mobil advised the committee that it was addressing this issue on a one to one basis. To date, Mobil has not addressed that matter. We also heard of a Mobil dealer being advised on 1 May that his rental had been increased by $35 000 per annum, or 27 per cent. Shell has also not treated its dealers in a fair manner. We were advised that the Shell multisite franchise that has been established has been guaranteed an income of $150 000 per annum, with a guaranteed pay-out of $1 million if he completes his 10 year term. If existing Mobil and Shell service station dealers decide to stay to the end of their franchise period they will receive nil—they will receive nothing from their oil company.

Mobil and Shell dealers have expressed serious concerns over the way they have been treated by their oil companies. The dealers believe that the oil companies are forcing dealers into a position where they have no alternative but to accept the offers being made by their oil company and to sell to it to terminate their franchise. There is plentiful evidence that suggests that Shell's multisite franchisee is its employee. Shell's multisite franchise is an obvious example of vertical integration, which is control from the oil well to the car steering wheel.

We had examples before the committee of the lack of knowledge of the business operation on the part of the Shell multisite franchisees. When we asked a Shell multisite franchisee how much he had borrowed for the business and how much he had used to set it up, he said that he believed that the figure was below $10 million, but the evidence put before the committee showed that the multisite franchisee had loan arrangements with the ANZ bank for in excess of $13 million. He was unaware of the exact amount or the amount of the capital requirements of that business. We asked

why he used the ANZ bank. He said it was because it was Shell's bank. He did not shop around for the best bank to lend him the $13 million. He was unaware of the interest rate being charged on this $13 million loan facility and he did not shop around for the best interest rate, because he was sure that the ANZ would treat him properly.

He did shop around when he was looking to buy a shelf company and he decided to buy that shelf company in Victoria because it would save him a couple of hundred dollars—they were cheaper to buy in Victoria. But he was not prepared to shop around for the interest rates or the best deal at a bank that could have saved him in the order of $100 000 over the term of the loan. The articles of association of that multisite franchisee are such that he cannot sell any assets without Shell's approval and he cannot hold any directors' meetings without Shell's approval. Basically, the control is there with Shell right through to the multisite franchisee. The documents provided by Shell show that if the multisite franchisee were to fall over Shell had guaranteed to the ANZ Bank that it would buy the assets up and take over the full security.

The report's recommendations reflect the total support of all members of that committee. However, there were other issues which did not gain total support but which warrant some mention here today. I am sure that other members of the committee will wish to put forward some other issues for discussion at a later stage. The issue of divorcement—the removal of the oil industry from the retailing of petrol, either by partial or full divorcement—did not have the full support of the committee to the extent of a recommendation. However, it did have the total support of the committee to be used as a big stick over the oil company should it attempt to circumvent any of the recommendations of the committee.

The committee acknowledged that the Sites Act, which was set in place in 1980 by the previous Federal Government to ensure to a certain degree that the oil industry stayed out of the retailing of petrol, had failed and that the oil companies had been successful in circumventing that Act. Some members of the committee believe that there should be an end to the passing of legislation in relation to the Trade Practices Act. They believe that petrol should be listed as a generic product to ensure that dealers can take advantage of terminal gate pricing and competition at the wholesale level to be able to buy petrol at the best possible price to pass on to consumers. It is that issue of passing on and the treating of petrol as a generic product which I hope the Federal Government will address at some stage soon when they are dealing with the recommendations of the ACCC report which was brought down on 14 August this year.

Since 1980 the oil industry has quite successfully circumvented the provisions of the PRMF Act and the Sites Act without intervention by previous Federal Governments and has established equity arrangements in both retail and wholesale areas. The establishment of multisite franchising is another stage in the oil industry's plans to circumvent those Federal laws. It is with this history in mind that the committee has strongly recommended that, should the oil industry attempt to circumvent the committee's recommendations, the committee would recommend that the Government consider legislation for the partial or full removal of the oil industry from direct retailing of petrol.

Accordingly, I wish to commend the report to the House. I commend the recommendations to the Government for action and implementation. In doing so, I wish to acknowledge other members of the committee and the work that they have put in. They are the member for Davenport, Mr Iain Evans; the member for Light, Mr Malcolm Buckby; the member for Playford, Mr John Quirke; and the member for Hart, Mr Kevin Foley. I acknowledge the support of all members and staff of the House of Assembly and, in particular, Mr Malcolm Lehman, who acted as secretary of the committee, and Mr Rod Anderson, who was appointed as the research officer. There are other members who worked tirelessly to ensure that this report was able to see the light of day and I am sure they will all support me in ensuring that the recommendations come into force.

Mr QUIRKE secured the adjournment of the debate.

AUDITOR-GENERAL

The Hon. M.D. RANN (Leader of the Opposition): I move:

That this House expresses its confidence in the professionalism, integrity and independence of Mr Ken MacPherson in his role as Auditor-General, an independent officer of this Parliament.

I move this motion as a matter of the utmost importance and urgency for this Parliament. There is no officer of this Parliament more important than the Auditor-General of this State. The Auditor-General is an independent officer of this Parliament. He does not report to the Government alone; he does not report to the Opposition alone; he reports to this Parliament as a whole. He is a non-partisan officer who deserves bipartisan support. He needs the bipartisan confidence of this Parliament in order to do his job effectively—a job in the interests of all South Australians. There has never been a time in which the role of the Auditor-General has been more crucial. There has never been a time in my memory as a member of Parliament when the office of Auditor-General has come under such an attack from the Chief Executive of the Government of South Australia, the Premier of this State.

I cannot remember an occasion before in the history of this State, or of Parliaments in other States, where it has been necessary to move a confidence motion in the integrity and professionalism of the Auditor-General. But such is the sad state of affairs in this State that, when the Premier is caught out; when the Premier is criticised; when the Premier's actions are found fault with, such is his thin skin that he always chooses to blame someone else, whether it be the former Government, the Federal Government, the Keating Government, the Howard Government, the Adelaide City Council, his Ministers, or his staff. Now it is the Auditor-General. People are saying: 'When will this Premier himself be made accountable? When will he say this is his fault, just for a change?'

We have an extraordinary situation in South Australia. Within less than 24 hours of the tabling of the Auditor-General's Report the Premier was on morning radio. He found the Auditor-General's criticisms of the Brown Government's privatisation and outsourcing policies 'short-sighted. . . simplistic. . . an attempt to rewrite history'. He described the Auditor-General's analysis as highlighting 'the sort of thinking that got the State into some of the problems'. What a disgrace! What an attack on the role of Parliament's most important officer, and what an attack therefore on Parliament itself! Without the information provided by the Auditor-General about the activities of executive Government, Parliament becomes nothing more than an expensive rubber stamp.

Yesterday the Auditor-General himself was forced to speak up and defend himself. He said that he was not

impressed with the Premier's intimidation and remarks. Neither is the Opposition and neither is the public of this State. And neither should be members opposite. All of us have a fundamental responsibility to defend the independence and professionalism of the Auditor-General's office.

If we try to besmirch his character, his work or that of his officers, as a State we all suffer. If the Premier seriously does not have confidence in the Auditor-General of South Australia, let him come into this Parliament and say so. Let him come into this Parliament and say that he has no confidence in the Auditor-General of South Australia. He will not do so, because he does not have the courage of his convictions. The activities of 2 October were all about diverting blame from himself. The got caught out like the possum facing the headlights of an oncoming car; he choose to divert attention, decided to blame the Auditor-General for his own misgivings because the Auditor-General had found out that the State's privatisation policies are going wrong, have not been put out properly and are costing the taxpayer more than if the activities in question had not been privatised.

So, for the second year running the Parliament and the public have been treated to the travesty of having a mock debate on the Auditor-General's Report—late at night, away from the media—in which no Minister of this State took part. What extraordinary contempt for the Auditor-General! Years ago we had days of debate on the report and recommendations of the Auditor-General, but last year it was held late at night and none of the Ministers were here to be part of the debate about the Auditor-General's criticism. Following criticisms of that process by the Auditor-General himself, the Government decided that it would fix it all up and ensure that there was adequate debate.

So this year we were allowed just 15 minutes to ask questions of each Minister, followed by another farce of a debate. It is a tiny fraction of the opportunity that the previous Labor Government provided to Parliament for the questioning of Labor Ministers on the basis of the Auditor-General's Report. We provided two full weeks of questioning. Ministers were down here every day facing the Opposition, making themselves available for nine or 10 hours each day, and during the Estimates Committees the Opposition was given copies of the Auditor-General's Report as the basis for that questioning. That has been denied. The Estimates Committees in this State are now held at a time when we are forced to conduct them without having seen the Auditor-General's Report. What has this Government to hide? We had 15 minutes to question the Premier and 15 minutes to question the Treasurer, who was again the Minister most roundly criticised in this year's report.

Mr ROSSI: On a point of order, Sir—

The Hon. M.D. RANN: Here is the Premier's financial adviser.

The SPEAKER: Order! That comment is out of order. The member for Lee is exercising his right to take a point of order and I suggest that he get on with it. What is the honourable member's point of order?

Mr ROSSI: The Leader was speaking with his back towards you, Sir. I thought that he was supposed to be addressing the Chair.

The SPEAKER: The honourable member is technically correct. The Leader of the Opposition.

The Hon. M.D. RANN: I will always face you, Sir, just as the Premier always faces you, except when the red lights are on the camera. There is not one on today. I will direct my attention to the member for Lee, who obviously has a keen interest in this debate.

The SPEAKER: Order! The Leader will not go down that track because the Chair was being most tolerant. The Leader was looking at the cameras for a considerable time when filming was in progress.

The Hon. M.D. RANN: This is the Minister—the Deputy Premier of this State—who was most criticised in this year's report. We got 15 minutes to question the Infrastructure Minister, who has privatised operation and management of Adelaide's water system without reference to Parliament: 15 minutes on a $1.5 billion project, a contract that this Parliament was never allowed to see. It was the same Minister who provided misleading information to this Parliament about the water deal; the same Minister who will not front up to the water select committee to answer questions; the same Minister who says he is available every Question Time to answer questions on his privatisation of our water supply but who provides only bluster and rhetoric and not information.

Yesterday the Auditor-General expressly drew attention to this issue. He said that Parliament has a right to know; in fact, an obligation to find out, especially, as he said 'in the case of a transaction involving public funds'. He went on to include 'Government contracts which are not being endorsed through a debate in Parliament by way of legislation': contracts such as the privatisation of water; the Premier's EDS deal; the establishment of private prisons; and the privatisation of hospitals, whether in the form of private management as in the Modbury HealthScope exercise or the use of private funds to construct hospitals for the Government. As the Auditor points out, this will cost the public more, not less, especially in those areas where the Auditor says that this Government has been least accountable. Parliamentary scrutiny is more important than ever before, as is the role of audit. This is what the Auditor-General had to say yesterday on the issue of parliamentary scrutiny. Of Question Time he said:

> Questions in Parliament can be deflected by Ministers if they seek to take that course.

And they certainly do. How well the Opposition understands what the Auditor is saying. The Auditor might well have been thinking of the way in which the Minister for Infrastructure merely brushed aside the damning criticisms of his handling of the bids for the water contract. He actually claimed that the Auditor-General had commended the process. The Auditor-General went on to say:

> Ministerial statements and annual reports in large part can be said to be self-serving because no-one will seek to advance issues which will be self-critical.

How true is that statement. Let us again take the example of the Minister for Infrastructure. He has just used the annual report of SA Water to claim that his privatisation deal has delivered benefits such as a huge turnaround in financial performance. Some journalists swallowed the bait, but the facts are that SA Water's profits actually fell slightly last year in spite of increased rains and lower pumping costs and despite the fact that consumer charges have risen by more than inflation, the scale of charges has been changed to ensure that people pay more, and the Government not SA Water picked up the tab for nearly 500 targeted separation packages.

The Minister and the Government want to give credit for the improvement in financial results to their privatisation of our water. The reality is that the improvement in the financial

performance of SA Water is due to reforms initiated under the previous Government and owes nothing to private management. The Auditor-General has pointed out what the Opposition has said all along: that with the reckless course that the Brown Government has set for South Australia of transferring control of the assets belonging to all South Australians into private and often foreign hands there are new and serious risks. The mania of the Brown Government for privatisation and outsourcing is remarkable. While the Government's Ministers wax loud and long on the supposed benefits of all this, they are struck dumb when they are asked for proof. Even beyond this, the Auditor-General has warned the Government and the people of this State in the clearest terms that the Brown Government is steering South Australia towards new risks and liabilities.

The Auditor says that the Government's large-scale outsourcing may leave the Government and the public liable for the actions of private contractors. On the contracting out of our information technology, water, our hospitals and all the rest, the Auditor says:

> . . . the South Australian Government may incur liabilities through the contracting out of 'core Government' services which it would not otherwise have had. The contracting out of Government services may also involve legal and financial risk to the State in tort where the law would impose non-delegatable duties on the State. [Executive summary page 10.]

Audit recommends that a detailed risk assessment be made before large-scale outsourcing is undertaken. When I asked the Premier about this on 2 October he was in denial mode again. He said:

> I can indicate that this public risk analysis is done as part of prudential management, so that the point raised by the Auditor-General is now covered.

That is what he told this House on 2 October. He said, 'It is now covered.' After the water contract, after the EDS contract, after the Modbury Hospital contract—'it is now covered'. It is a bit late now. On the fourth page of its memorandum to Parliament, audit says that risk management practices in the South Australian public sector have been 'patchy'. By way of further example, audit has confirmed the added expense to the public of private financing of public infrastructure. It is very important for this Premier to apologise to the Auditor-General of this State for his abuse.

I am prepared to sit down with the Auditor-General and with the Premier in a bipartisan way to work out effective protocol to protect the independence of the Auditor-General of South Australia—protocols that will also cover the proper and detailed consideration of the Auditor-General's Report to this Parliament. We have a fundamental responsibility to protect and defend the Auditor-General of this Parliament. He is our Auditor-General, representing us all. He does a job, though, on behalf of the people of this State and the taxpayers of this State, and the Premier should apologise.

Mr BASS secured the adjournment of the debate.

SCHOOLS, FESTIVAL OF MUSIC

Ms GREIG (Reynell): I move:

> That this House congratulates all South Australian public primary school children, their music teachers, the 77 assisting artists/groups, the orchestra coordinator, the orchestra and choir conductors, Mr Joseph Docherty and members of the South Australian Public Primary Schools Music Society Inc. for their outstanding and highly successful 1996 Festival of Music.

On Monday 16 September, Thursday 19 and again on 23 and 24 September, I was one of the many people who had the opportunity to be entertained by a delightful array of primary school choral singers, their accompanying orchestras and a diverse variety of primary and high school assisting artists who were all part of the 1996 Festival of Music. Since 1891, a group of dedicated educators has sought to provide a focus for music in South Australian public schools. The South Australian Public Primary Schools Music Society Inc. arose from an earlier organisation, the Public Schools Floral Society, founded in 1879. In 1891, the organisation became known as the Public Schools Decoration Society, and then throughout the 1920s to the 1940s the organisation was known as the Thousand Voices Choir.

Programs were then presented in the Adelaide Town Hall until the Festival Theatre became available, and since then the concert programs have been held exclusively in the Festival Theatre. During 1921 to 1925, the choir saw 1 500 students in the massed choir, whilst the late 1930s saw their choir swell to over 2 500. As time has moved on there has been a steady increase in numbers, and this year the Festival of Music proudly boasted 5 000 students, covering 11 concerts in the massed choir. To this we can add 19 student compares, 70 student soloists, over 40 orchestral players for each concert, and 77 individual students or groups performing in the assisting artists' program, with extra students involved in the night's foyer entertainment.

As I mentioned earlier, this year's season consisted of 11 performances, with 468 different primary school choristers in each of the performances which, in turn, is a total of 5 148 children from 190 DECS schools. I might add that this involved both metropolitan and country schools, with country children coming from as far away as Leigh Creek, Kangaroo Island, Port Lincoln, Cleve, the Mid North and the South-East. Three different student orchestras—again, all primary school students—accompanied the choir, as well as playing as guest artists. We should acknowledge the extensive organisational work undertaken by Ms Josie Little, the orchestra coordinator, and, of course, the choir and orchestra conductors who had been involved in weekly practices over the past six months.

The 77 assisting artists and groups were selected from 280 auditionees. The auditions were conducted earlier this year to provide support items for the concerts. Seven of the assisting artists performed at each concert. I acknowledge the work and the enthusiasm of the DECS music teachers who worked with the students in their local schools.

Earlier, I mentioned the guest artists who performed in the foyer of the theatre. These students provided entertainment whilst guests were waiting to enter the theatre. As a special event, Aquinas College Junior Choir and the Geelong Choir were given places in the foyer concerts. I should also point out that a representative of the Western Australian Education Department's Music Festival Committee visited Adelaide to observe this year's concert series. The South Australian Public Primary Schools Festival of Music has grown into a bigger and better display of musical talent from public schools—a feat we can all be proud of. The music program—both the massed choirs singing and the assisting artists—contained music of many styles, including folk songs, carols, reflective music, musical comedy, classical rock, and music from other cultures.

Mr Speaker, many of the numbers performed were songs that you and I could relax to or tap one's feet to, particularly those songs with a calypso beat or the Mexican Hat Dance. There was also a beautiful rendition of The Impossible Dream. The conclusion to the night was a powerful performance of Trumpet Voluntary, and the finale gave us the

Hallelujah Chorus. Handel would have been totally exhilarated by our choir's superb performance of this magnificent chorus. The program covered a wide cross-section of styles. We saw the developing choral singing techniques covering relaxation, breathing tone, diction and presentation skills.

I proudly acknowledge Tara Puplett of Hackham South School who was the choral compere on the Monday 23 September performance. Tara, like the comperes at each of the sessions, provided us with a very professional introduction to the performing artists. For someone so young she gave an incredible, very skilled opening for each presentation. She did this in front of a packed theatre in a manner usually displayed by someone of maturity and experience way beyond her years.

Five of my local schools performed on the various nights which I mentioned earlier. On Monday 16 September I had the pleasure of watching Flaxmill Primary School; on Thursday 19 September I was one of the many who were delightfully entertained by Morphett Vale South Primary School; and on Monday 23 September Hackham South Primary School and Morphett Vale West added again to the outstanding performances. The final night concluded with, once again, a brilliant performance from the students of Hackham West Primary School.

In conclusion, I again acknowledge not only the choirs, the assisting artists and orchestras, the music teachers, conductors and coordinators but also Mr Joseph Docherty and the members of the South Australian Public Primary Schools Music Society Incorporated for giving not only me but all of the community the opportunity to see, hear and be entertained by our very many talented music students.

Ms HURLEY (Napier): I echo the member for Reynell's sentiments. She very ably went through all the details of the performances organised by the South Australian Public Primary Schools Music Society. I, too, attended performances because two of my schools took part in the presentation. While the honourable member was very impressed by the discipline and hard work put into the performances, it represented a great deal of time and effort by the staff assisting the school children, the school children themselves and, I am sure, their families as well. I particularly want to commend the teachers involved. They are in the middle of a long and difficult teacher's dispute and have various sanctions in place which prevent them working out of hours. However, in the interests of the students and their families, the teachers have allowed a number of exemptions, and I am sure this one was of them. I very much appreciate the time put in by the teachers because, undoubtedly, the students and their families very much enjoyed this evening and were very appreciative of the talent displayed by the students.

The member for Reynell also mentioned the confidence and maturity exhibited by a number of students, particularly those involved in the solo work. They were very impressive. It is a tribute to the excellent way today's primary schools encourage confidence and self-esteem in their students that they are given this responsibility. I was impressed by the range of music and performances on the night that I attended. I guess my only mild criticism is that I would have liked to see something more modern performed by the students, and perhaps they would have appreciated a greater range of modern music, but certainly the items chosen did display the range of talents and abilities of the students. I am very pleased to support the member for Reynell in this motion of congratulations to everyone involved.

Motion carried.

FAMILY SUMMIT

Mr SCALZI (Hartley): It gives me great pleasure to move:

That this House congratulates the Government on its initiative to hold a family summit in November.

I commend the Minister for Family and Community Services for taking this initiative. We all have an important role to play, and the family is the fundamental unit of our society. The Government places great priority on this fact. South Australia's quality of life has benefited tremendously from a very diverse social structure. This State is proud of its rich multicultural history, with representation of some 150 nationalities and cultural groups. Surveys show that nearly one quarter of our population was born overseas, with 12 per cent born in non-English speaking countries.

This diversity is reflected in many ways: through our rich culture, arts, restaurants, education and industry. No-one can doubt that it is better to eat five pasties and five pizzas than either 10 pasties or 10 pizzas. This diversity is also reflected in our family structure and changing trends of the family, including the extended family. The well-being of all families, no matter their cultural background, is vital to the well-being of South Australia, and this State needs to take a proactive role in placing family issues on the public agenda.

Last Sunday, the State Government, through the Minister for Family and Community Services, took a major step forward in announcing a $500 000 campaign to help provide greater resources, particularly for parents. This campaign features a significant television promotion, the preparation of 48 information sheets on topics ranging from newborns to teenagers and drugs, the relaunch of the parent help line, and $100 000 in community-based grants to further the cause of parenting and families in general. No-one can doubt the commitment to families by this Government.

'A Profile of South Australian Families' makes for interesting reading. There have been changes in the structure of families, and there has been a changing role with different pressures placed on families, so this summit is very important. If we look at the profile, there are about 404 700 families in South Australia. Couple families with dependents account for 38 per cent of all families; one parent families with dependants account for 9 per cent; and two income families with dependants account for 55 per cent. This means that the Government has a responsibility to pursue a flexible and adaptive family oriented policy to help meet the new and changing needs across all economic and cultural spheres. I know that from the pressures experienced by my family, and I am sure members would acknowledge the changes in the past 10 to 15 years. We need to look at them and see the best way to make sure that the family remains the fundamental foundation of our society.

Over the past decade and longer, families have been put to the test. Issues surrounding the State Bank losses and the State economy led to high unemployment, bankruptcy, stresses, personal trauma and family crises. There have been other impacts as well, such as the impact of modern technology and the increasing pace and competitiveness of life; and there have been structural changes in employment and no-one can doubt the pressures, for example, resulting from the changing role of gambling. These important aspects must be looked it. In putting back the pieces economically, the State would help put back the pieces for families.

On 1 November the State Government, as part of its International Year of Family commitment, will hold an innovative family summit. The summit will bring together some 150 people from throughout the community, including government and non-government, and the community service sector, to help advance the cause of the family in all its forms. The summit is being called to develop possible actions on a range of issues including families and work, families in rural environments, families and education and health, and family support.

The concept of the family summit is to be fully supported, providing an important framework to develop policy and priority issues for the future which will impact upon our quality of life and the State's well-being. It is important that we have summits such as this because, as I said earlier, everyone knows about the changing pressures that have been put on families. The structures have changed. If we do not consider this issue in an objective and sensible way, we will not know how best to provide services for families.

I look forward to the outcome with much interest. I commend the Government for conducting the family summit. I am sure that all members would agree that it is important that we support the summit to ensure that all South Australians benefit ultimately from it.

Mr De LAINE secured the adjournment of the debate.

YAN TAI NURSING COLLEGE

Mr SCALZI (Hartley): I move:

That this House commends the University of South Australia for establishing the first international university link with the Nursing College in Yan Tai in Shandong Province, People's Republic of China, and congratulates Professor Fran Sutton and the first 14 nurses who graduated on 11 September 1996.

I was very honoured to represent the Premier in Yan Tai. It is a historic agreement and a historic moment that we are establishing an offshore link of the University of South Australia, and we now have the first 14 graduates in China. I will outline briefly some of the history of this important project. In November 1994, a collaborative joint venture agreement was signed with Yan Tai Nursing College, Shandong Province, People's Republic of China, following receipt of approval on the thirty-ninth document of the Shandong Provincial Government. The Yan Tai Government has been very supportive of the program, as it is the first collaborative venture in China between the nursing college and an international university.

The project was commenced in March 1995 by Professor Fran Sutton with a 10 week training course for teaching staff and selection of students. The first group of 14 students commenced a Bachelor of Nursing (post registration) on 19 September 1995. The students came from across a number of provinces and are leaders in their field. They undertook four by nine point subjects across two semester programs. Professor Sutton taught in English with an interpreter present to ensure understanding in the initial stages of the program. The success of the first cohort has meant that the second course, which commenced in September 1996, will have at least 50 students.

One student from this first group has been accepted as a fee-paying student into the Masters in Nursing and is due to commence her studies in March 1997. Mr David Lee, a lecturer from the School of Nursing Studies at Underdale, travelled to China in September to offer the second course. A conferral of awards was made on 11 September 1996 with the Australian Ambassador to China, Mr Richard Wilson, in attendance. As I said, I was very honoured to represent the Premier on that day. The first 14 graduates of the degree of Bachelor of Nursing were Bing Jin Lian, Chen Zhi Ling, Fan Jin Yan, Heng Yan Lin, Li Ai Zhi, Lin Yue Feng, Liu Ju Xiang, Meng Fan Rong, Pan Nai Lan, Shi Xin Hong, Wan Yue Lan, You Feng, Wang Jin Ping, and Zeng Jie Ping.

The SPEAKER: I hope the honourable member has the correct pronunciation.

Mr SCALZI: I do not know about the correct pronunciation, but it is important to express the correct sentiments for such a historic agreement. It is a success story that really demonstrates South Australia's standing oversees, especially in the field of education. It was a great honour for me to attend on the day for three main reasons: first, it was an honour to represent the Premier, the Hon. Dean Brown, at this important and historic graduation. Secondly, it was an important honour for me as I am a member of the council of the University of South Australia, and in that role I have witnessed many graduations.

In fact, I attended a graduation on Monday. I have seen many students from the University of South Australia who have worked hard for their final results, and it is good to see the expressions on their faces. It was a particular honour to be a part of this internationalisation, to see the 14 graduates from Yan Tai and to know that this is a campus of the University of South Australia. It is an important post for South Australia. We do not record these achievements as often as we should, and the media does not publicise these important events. It is the first international university to have such a link. It is a South Australian university from the city of Adelaide, and we should be proud of it.

Thirdly, it was an important occasion because I respect the nursing profession, and I was honoured to be at a graduation of nurses. I believe that the health ministry is very important and, whether one is a physician or a surgeon, or in whatever capacity one is associated with the process of healing and looking after people, without the nursing profession the final well-being of a patient will not be actuated. The healing ministry is an important and precious gift, and the nursing profession is the gift wrapping that makes it possible to present the profession to the patient. Given that we are part of that process in a country such as China, we are assisting in developing skills and making a contribution.

Debate adjourned.

[Sitting suspended from 1.01 to 2 p.m.]

TAXATION ADMINISTRATION BILL

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

STATUTES AMENDMENT (TAXATION ADMINISTRATION) BILL

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

GREAT AUSTRALIAN BIGHT MARINE NATIONAL PARK

The Hon. DEAN BROWN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. DEAN BROWN: The Government is committed to fully participating in a new era of environmental and conservation awareness. It is also committed to the development of the eco-tourism industry in conjunction with indigenous communities, particularly within regional South Australia. I am pleased to advise the House of further tangible evidence that the Government is delivering on these commitments. Today the Minister for Tourism and I, the Minister for Aboriginal Affairs and the Minister for Environment and Natural Resources met with representatives of the Yalata community, the Chair of the Aboriginal Lands Trust, and the Hon. Graham Gunn, member for Eyre. Our meeting addressed the issue of tourism development associated with the Great Australian Bight Marine National Park, which the Government proclaimed three weeks ago.

I am pleased to advise the House that this morning agreement was reached between the South Australian Government and representatives of the Yalata Community and the Aboriginal Lands Trust that immediate steps will be taken to develop and upgrade eco-tourism facilities for whale and sea lion watching within the Great Australian Bight Marine National Park. In particular, the Government has agreed to commit $1.3 million to the immediate upgrading of road access for tourism-related purposes to the head of the Bight and the development of essential facilities such as walking trails, car parks, toilets, safety fences and related amenities. It is intended that this work will commence almost immediately and be completed within approximately six months. This work will be undertaken by the Government in conjunction with the Yalata Community, the Aboriginal Lands Trust and local council authorities.

In addition, the Government will also plan additional infrastructure designed to provide high quality tourism facilities in the form of an interpretative centre related to both the whale and sea lion sanctuary and the local Aboriginal heritage of the region. Programs for tourism training will also be investigated. The whales in the Great Australian Bight Marine National Park and its marine sanctuaries and conservation zones are a stunning natural attraction that is receiving growing interest around the world. The development of this marine national park and related tourism infrastructure is now being delivered by this Government—a far cry from the promises made as far back as 1989 by the former Labor Government, which again failed to deliver for either the environment or tourism infrastructure in South Australia.

STATUTORY AUTHORITIES REVIEW COMMITTEE

The Hon. DEAN BROWN (Premier): I seek to leave to make a further ministerial statement.

Leave granted

The Hon. DEAN BROWN: On 3 September 1996 the Government received a request from the Statutory Authorities Review Committee for information concerning membership of category 1 State Government boards and committees, particularly relating to sitting fees and related matters. Subsequently, and consistent with practice, the Government forwarded the relevant information to that committee on an *in camera* basis. Yesterday the Government received a request from the Presiding Member of the committee that this information be made generally available to the committee without condition as to confidentiality.

I advise the House that the Government will be advising the Presiding Member of the committee that the information which has been made available may be tabled before the committee without such conditions. At the same time, the Government will provide this information to the Economic and Finance Committee.

QUESTION TIME

ENVIRONMENT PROTECTION AUTHORITY

Mr CLARKE (Deputy Leader of the Opposition): My question is directed to the Minister for the Environment and Natural Resources. How many incidents of environmental pollution have been reported as required by section 83 of the Environment Protection Act since the Act came into operation in May 1995, and how many prosecutions have been launched? Section 80 of the Environment Protection Act makes it an offence to cause material environmental harm, and the penalty for a body corporate is a fine of up to $250 000. On 11 September an EPA officer said that the EPA had only seven officers to patrol the suburbs and it was 'extremely difficult to get evidence to prosecute with so few officers'.

The Hon. D.C. WOTTON: I would be pleased to provide the House with that information in detail before the end of Question Time today as I do not have that detail at the moment. I say again, as I said in the House yesterday and as I have said on two or three previous occasions, I believe that the matter of resourcing for the EPA is being addressed by this Government. I repeat that the resources provided for the EPA are those that were determined by the previous Government when the Environment Protection Act was dealt with in this Parliament. In fact, the resources have improved on what was envisaged and what was indicated by the previous Government right from the time the EPA was launched by the previous Labor Minister, Susan Lenehan.

As I have said before in the House, and as I said yesterday, I am totally satisfied with the way in which the EPA is carrying out its responsibility under the legislation. I am also very pleased that, in the past 12 months in particular, we have been able to bring on board a number of other authorities, including local government, to help us with the responsibility that we have in monitoring pollution in its various forms involving, for instance, air and water pollution. I am perfectly happy. I will provide the detailed information that the honourable member has sought prior to the conclusion of Question Time today.

WOMEN, PUBLIC SECTOR

Ms GREIG (Reynell): Will the Premier advise the House of any changes in the proportion of women holding senior positions in the South Australian public sector?

The Hon. DEAN BROWN: This Government has made a real commitment to increase the number of women involved in Government boards and the administration of Government itself as well as making sure that more women get into Parliament. As members would know, a select committee has reported to Parliament after looking at some of the obstacles

to getting more women into Parliament. It is the Liberal Party that has led the way here. I highlight to the House that, of the 10 South Australian House of Representatives seats won by the Liberal Party at the Federal election earlier this year, four are held by women, and two of the Senate seats are also held by women in this State. I am also able to indicate that South Australia was the first State in Australia to achieve 30 per cent female representation on Government boards and committees. We achieved that just a month or so ago. This Government has made a bigger commitment to achieving this level of involvement of women on a pro-active basis within the public sector than any other State of Australia.

I am also able to report today that the latest information shows that the number of women holding senior positions in the South Australian Government has increased very substantially over the past 12 months from 17.4 per cent of the positions to 23.1 per cent—that is in just one year. It is clear proof that this Government has made a very specific commitment to involving more women. I am the first to admit that we have further to go, but I highlight that the Labor Party set down some targets for the year 2000. This Liberal Government is achieving those targets four years ahead of schedule, whilst the Labor Party is struggling to get anywhere near its targets by the year 2000.

BRIDGESTONE EDWARDSTOWN PLANT

Mr CLARKE (Deputy Leader of the Opposition): I direct my question to the Minister for the Environment and Natural Resources. When Bridgestone made application to the then EWS Trade Waste Branch in 1995 to dispose of treated groundwater to the sewer, did the company reveal that it was cleaning up a toxic spill, and was this monitored by any Government agency?

The Hon. D.C. WOTTON: The first point I would make is that, as far as the responsibility of the then Trade Waste Branch of the EWS is concerned, that is what that agency was about. It provided licences on an ongoing basis for—

Mr Clarke interjecting:

The Hon. D.C. WOTTON: I have sought detailed information from SA Water regarding the procedures that were followed. Members of the House should realise that this matter will be dealt with by an independent authority: the EPA is an independent authority. The then Opposition supported the previous Labor Government when it introduced the legislation that determined that the EPA should be totally independent. We must realise that any action that will be taken in this or any other case will be taken by the EPA, which is independent, and I have already indicated to the House that that will happen at the next meeting of the EPA, later this month. I also make the point that the Environment Protection Act has been in operation since May last year. Industry has realised its responsibility under that legislation to notify the EPA of any problems that it has in respect of leakages, in the way we have seen in the past.

Mr Clarke interjecting:

The Hon. D.C. WOTTON: The honourable member might ask Bridgestone why it has not notified—

Mr Clarke interjecting:

The SPEAKER: Order! The Deputy Leader of the Opposition has been given all the latitude that Parliament and the Chair intend to exercise. He started off in a very bad fashion today, and he knows the consequences. If he proceeds, he knows what will happen.

The Hon. D.C. WOTTON: I will repeat what I said yesterday: as soon as the EPA was notified, it immediately brought down an information order to obtain the type of information that the Opposition requests. That information is being made available. The EPA also brought down an environmental protection order immediately it knew there was a problem. So, action has been taken by the EPA. As I said in my ministerial statement yesterday, I am satisfied with the action taken by the EPA as I have been advised.

This whole issue will be dealt with by the independent EPA at its next meeting, and it is that agency that will determine what action, if any, should be taken against Bridgestone. There will be no opportunity for political interference, nor should there be, as is made perfectly clear in the legislation. I can only say that the honourable member and the Opposition will have to be patient until the EPA has carried out its investigation and determined what action, if any, needs to be taken.

OIL EXPLORATION

Mr CUMMINS (Norwood): Will the Minister for Mines and Energy inform the House of work being undertaken in the exploration for oil in waters offshore South Australia?

The Hon. S.J. BAKER: It is pleasing news for South Australia that two wells will be sunk in the Stansbury Basin. They will be the first wells offshore. Well No. 1 will be drilled 30 kilometres south-east of Edithburgh and well No. 2 will be drilled 25 kilometres south of Edithburgh by Canyon Pty Ltd, an affiliate of Wagner and Brown Pty Ltd. The program, which is worth $15 million, is the first of this nature. Although we have had rigs offshore in one or two of the basins off South Australia, this is the first time that someone has attempted to sink wells in this vicinity.

I find it exciting. It is a very expensive program. The oil rigs will arrive within the next week or two. As someone has said, it means that there is a possibility of finding oil in areas which had not showed any prospect previously. It is a jack-up drilling rig on the *Maersk Victory*. It is currently operating in Western Australian waters and it will be shipped to South Australia. The rig will stand about 50 metres high. It will not necessarily be visible from all shores, but I think it will be a signpost to indicate that activity is occurring. There is a suggestion that the Cambrian age sediments of the Stansbury Basin may well be prospective for oil. That is why with all the information that is now available to the Department of Mines and Energy the conclusion has been drawn that there is a strong possibility of oil being found in that area.

Importantly, because this is a very sensitive area, everyone would recognise that there must be proper environmental protection—and that has been put in place. I remind members that a number of areas must be satisfied before any company can drill for oil. The documents that must be satisfied include: the declaration of environmental factors, the code of environmental practice, the emergency response manual, the oil spill contingency plan, the drilling program, and a safety case and contingency manual for the drilling rig. So, a number of industrial and environmental areas are involved that must be satisfied before a drilling rig can be set and the well sunk. There are contingency plans should a mistake occur. The possibility or probability of that happening is very low.

I remind members, when we are talking about off-shore well development, of Gippsland in Victoria: the total amount of oil spilled in the period it has been operating is a little over 900 barrels, and that is .0003 per cent of the oil produced.

Around the world the activities of drilling rigs have generally been of a highly satisfactory nature, and there has been little or no spillage from those rigs. Given the sensitivity of the area, we intend to see that all the precautions are put in place and that there are emergency plans should something go wrong. However, importantly, we have seen a company, in conjunction with a large number of other companies, placing faith in South Australia. We have seen some enormous interest in Gawler Craton and the Curnamona Province and, of course, we now have some off-shore drilling. It augurs well for the future of this State.

BRIDGESTONE EDWARDSTOWN PLANT

Mr CLARKE (Deputy Leader of the Opposition): Why did the Minister for the Environment and Natural Resources tell this house yesterday that 'it is not up to me or the EPA to say why Bridgestone did not report [the toxic spill] before September this year' when the Environment Protection Act requires all such incidents to be reported? Section 83 of the Environment Protection Act requires the EPA to be advised of any incident that causes or threatens to cause serious or material environmental harm from pollution. The penalty for failing to report such incidents is a fine of up to $120 000 for a body corporate.

The Hon. D.C. WOTTON: I am not quite sure what the question is. If the honourable member looks at the ministerial statement I made yesterday, he will see clearly the situation. I am aware of the penalties that are laid down under section 83 of the Environment Protection Act. I would have hoped that the industry was aware of the responsibilities it has under that section of the legislation as well. I do not know how many more times I have to say that the independent EPA is the one that will determine what action needs to be taken—

Mr Atkinson interjecting:

The SPEAKER: Order! The member for Spence.

The Hon. D.C. WOTTON:—and what action will be taken as a result of Bridgestone's failing in its responsibility to notify the EPA prior to the period that it did. I should also say that, when it notified the trade wastes section of the then EWS, communication was made in March last year, and the Environment Protection Act was proclaimed in May last year, so there was that gap between. That is what the authority will need to take into account.

I will not stand up here and apologise for Bridgestone or indicate why it has not done so. That is a matter that the EPA will need to consider. That is a matter it will have to look at carefully when, as I have just said in answer to the previous question, it determines what action, if any, needs to be taken through the courts regarding this matter. It is the responsibility of the Environment Protection Authority to determine that, and it will come before the authority at its next meeting later this month.

BTR ENGINEERING

Mr CONDOUS (Colton): Will the Minister for Industry, Manufacturing, Small Business and Regional Development advise the House on the recent announcement of the establishment of a cast metals precinct at Wingfield? The announcement has caused some concern amongst local residents. Will the Minister respond to these claims and give a progress report on plans for the precinct?

The Hon. J.W. OLSEN: I am happy to detail to the House a positive announcement by BTR Engineering, which has given a commitment that it will invest $28 million in shifting its foundry operations from Bowden out of a residential area to the specially designated cast metal precinct. The purpose is to collocate and consolidate foundries out of the inner western suburbs, where residential encroachment on those houses has created difficulties in terms of being able to operate 24 hours a day, which they need to do to become internationally competitive to win international export market opportunities.

BTR Engineering is one of Australia's largest foundries. It is the first to take up the State Government's offer of creating a cast metal precinct, and during the course of 1997 it will build this new purpose built foundry with the prospect of its being opened in about November-December 1997. In relation to the question of environment and concerns of residents, I understand that residents are at least 1 kilometre away from the proposed cast metal precinct.

The Hon. Dean Brown interjecting:

The Hon. J.W. OLSEN: Yes, it is. But, importantly, it is proposed that this cast metal precinct will have the world's toughest air quality standards. That has been factored into the development of this purpose-built precinct. The environmental standards will not only match world's best practice: in some areas they will be about 100 per cent tougher than some of the international practices. Therein puts to rest the fears and concerns of some people. Where you have, for example, at Ashford Hospital a foundry within a few hundred yards next door to a two storey block of flats, it clearly indicates the restrictions on these foundries operating in South Australia.

Foundries for cast metals are very important feeders to our automotive industry. If we are to have General Motors commit $1.4 billion to a second production line, and Mitsubishi commit $500 000 million to manufacturing motors, with $400 000 in the next full financial year to be exported back to Tokyo, it is important for cast metal and tooling—but cast metal in particular, which is a basic foundry supporting automotive industry—to be positioned as a feeder to the automotive industry.

We are seeking to overcome the environmental, noise and pollution problems in inner western suburbs. The designation of the cast metal precinct has the support of the Port Adelaide Enfield Council. A PAR has been established for it, the EPA has been consulted concerning it, and it will be developing world's best practice in terms of its operation and efficiency, so that foundries in South Australia can not only underpin our manufacturing industry and the 100 000 jobs in this State—not to mention the 3 500 people employed in foundries within South Australia—but become internationally competitive.

One of the difficulties is that there will always be some people who will oppose changes such as this. I would simply ask some of these people who oppose the changes, who oppose the establishment of a cast metal precinct, where they expect us to put it? Should it be sited in outback South Australia? The simple fact is that we have designated an area away from close alignment to residential areas. It has applied to it EPA requirements and conditions of relocating in those areas, and I would have thought that the freeing up of those foundries within Adelaide's inner western suburbs which have been in their current location for decades and many of which require upgrade will be a positive step forward in terms of supporting the manufacturing base of South Australia.

CHILD ABUSE

Ms STEVENS (Elizabeth): Will the Minister for Family and Community Services explain why his department has insufficient resources to provide an appropriate response to reports of child abuse? The report by the South Australian Child Abuse Prevention Strategy recommends that additional resources be made available to ensure that all reports of child abuse and neglect receive an appropriate response by the Minister's department. The report states:

> A lack of adequate resources for the Department of Family and Community Services to fulfil these important social and statutory responsibilities is clearly evident leading to criticism of delays between reports and follow up, lack of feedback and insufficient action.

The Opposition has been informed that up to 30 front line social workers have been cut from district centres.

The SPEAKER: Order! The honourable member is now commenting.

The Hon. D.C. WOTTON: I guess in relation to the first question about resources, I should say that all the problems that the Government has in relation to resourcing is the direct result of the State Bank disaster, and no-one but members of the previous Government and the present Opposition can be blamed for that.

Members interjecting:

The SPEAKER: Order! The member for Mawson and the member for Mitchell are out of order.

The Hon. D.C. WOTTON: I could suggest that every one of my colleagues on this side of the House would like more resources, but the fact is that because of the financial mismanagement of the previous Government—the present Opposition—that is not possible.

Mr Clarke interjecting:

The Hon. D.C. WOTTON: It is a pity that you did not accept some of the blame yourself.

The SPEAKER: Order! The Deputy Leader of the Opposition knows the consequences.

The Hon. D.C. WOTTON: The honourable member has raised a very complex and serious subject and one which I would hope would be beyond politics.

Ms Stevens: On a number of occasions.

The Hon. D.C. WOTTON: I have devoted considerable time addressing this matter in the past 2½ to three years and I am rather surprised—

Ms Stevens interjecting:

The Hon. D.C. WOTTON: Well, let us talk about results, because I am rather surprised that the member for Elizabeth would raise this matter and would want to try to bring politics into the issue. I can produce figures—and would be very happy to do so—which show that child abuse notifications soared nearly 700 per cent under the Labor Government, so let us not suggest that this is an issue that has—

Ms Stevens: I am not suggesting that.

The Hon. D.C. WOTTON: Come on! It is the member for Elizabeth who raises this matter in the House, makes it a political issue, and then is not prepared to accept the fact that this was a more significant problem and we saw a much greater increase in child abuse under the previous Government than is currently the case. It was an increase of almost 700 per cent. From 1983 to 1993 we saw an increase of 700 per cent in child abuse under the previous Government. What did your Government do about child abuse? Not a thing.

Mr Clarke interjecting:

The SPEAKER: Order! I warn the Deputy Leader of the Opposition for the second time.

The Hon. D.C. WOTTON: In fact, I can bring figures into this House which show clearly that the previous Government cut staff in this important area, yet the member for Elizabeth has the gall to be critical and say that we have not enough staff in this area. The honourable member should realise that child abuse is a world-wide issue, it is an issue in every State of Australia, and South Australia is no worse off in this area than any other State. How many times have I said in this House that child abuse cannot be tolerated and we are doing everything we can to ensure that is the case? Let us cut through the rhetoric. First, let us talk about the fact that many of the cases labelled child abuse are not about harm to children but about parenting style and parent behaviour. Taking that into account, that is the very reason why we have given the very highest priority to working with families.

Yesterday, I brought to the attention of the House the launch last weekend of the Parenting SA Campaign. I would suggest that that campaign will do more than anything else to work with children and families that are vulnerable in this area to ensure that more parents have the skills and that at a very early stage we can implement preventative measures to deal with the situation before it becomes child abuse. I could say a lot more about this issue, but I would make the point here that, accepting the responsibility that the Government and I as Minister have to deal with child abuse matters, I will give the highest priority to introducing preventative measures to try to rid ourselves of child abuse in the first place. That is what I am about. We have to provide resources to ensure that we are dealing with child abuse, but we also need to have the resources for, as well as to give a high priority to, introducing preventative measures, and that will be the very first priority that I have as Minister for Family and Community Services in this State.

'FANTASY'

Mr WADE (Elder): In light of recent incidents in Queensland, can the Minister for Health inform the House whether the South Australian Government proposes to make the drug known as 'fantasy' illegal?

The Hon. M.H. ARMITAGE: I thank the member for Elder for his particularly important question. In fact, I can inform the House that this morning Executive Council declared 'fantasy' a prohibited substance under the Controlled Substances (Declared Prohibited Substances) Regulations. The effect is that convicted suppliers of the drug, which is technically called gammahydroxybutyric acid, can face severe penalties of up to $500 000 and life imprisonment. The developments in Queensland certainly highlight the dangers of the drug. I refer to the episode a week and a half ago where 10 partygoers were hospitalised, and I understand that nine of them were affected nearly fatally. That indicates that the Government has to treat this matter very seriously, because it takes only a minute amount of the drug, I am informed, to lead to life threatening situations.

The two main concerns of 'fantasy' are its ability to create considerable confusion and incoordination and to lead people quickly to have a coma or to be sleep induced. Users are rendered unconscious with little warning, and the effect of the drug seems to be exacerbated when mixed with other drugs like alcohol, because breathing difficulties in particular can occur as a further complication. The approach that we have taken today in South Australia is part of a nationwide effort

to stop the supply and the dangerous use of this potentially fatal drug. I am informed that there is no evidence in South Australia to suggest that there is a large scale or even significant level of the drug being used. I guess one could say that we are actually undertaking pre-emptive action in this instance. Cabinet made a decision on Monday to make this a prohibited substance, and today in Executive Council with the Governor it was signed off. Obviously, if there had been evidence of an immediate problem in South Australia, that time frame could have been concertinaed.

The Government is very much committed to a harm minimisation effort in relation to drugs and, in circumstances such as this where the drug is clearly dangerous and where peddlers clearly have an opportunity to prey on people who perhaps do not know the dangers of the drug or who may unwittingly use the drug, we will have no hesitation in prohibiting the use of the drug and being very directive with the courts by making sure that they have the opportunity to inflict severe penalties along the lines of, as I have said, a fine of $500 000 and life imprisonment for convicted drug peddlers.

CHILD ABUSE

Ms STEVENS (Elizabeth): Does the Minister for Health reject the recommendation of the South Australian child abuse prevention strategy that a home visiting scheme for all new parents should be established by Child and Youth Health, and will he explain why he cancelled the pilot Northern Suburbs home visiting program announced by him as part of the 1995-96 budget? The child abuse prevention strategy report says that family support programs have demonstrated success in early detection before family dysfunction reaches a level that requires protective intervention. The report recommends that a home visiting scheme for all new parents be established and operational by July 1997. In August 1995 the Health Commission announced it was implementing world's best practice by establishing the Northern Suburbs home visiting program to respond to the needs of young parents. In October 1995 the Minister cancelled the scheme.

Members interjecting:

The SPEAKER: Order! The member for Elizabeth asked her question in silence and that does not give her the right to ask a series of follow-up questions by way of interjection. She has had her warning.

The Hon. M.H. ARMITAGE: This is a very worrying question from the member for Elizabeth, because I gave her a confidential briefing as to why that program was stopped.

Ms Stevens interjecting:

The Hon. M.H. ARMITAGE: I did, indeed. I went over to your side of the House and spoke to you about why it was not advanced.

Members interjecting:

The Hon. M.H. ARMITAGE: Exactly. It was not advanced because of the publicity it had been given. I was advised that the families who were most at risk would not take part in the program because they would be stigmatised as a result of the publicity that that program had received by being publicised. In essence, because of that we were forced to look at different strategies for spending the same amount of money. We then looked at three different models which we are trialling in three different areas, with the option of taking the most successful of those options from within the Health Commission's budget and having some evidence-based results upon which we can then utilise our funding in the most effective manner possible to help wipe out this scourge of child abuse. What the member for Elizabeth has done by drawing attention to this is that it may be that this year a similar program will be kyboshed once again. I will have to take advice on it.

Ms Stevens interjecting:

The SPEAKER: I warn the member for Elizabeth.

The Hon. M.H. ARMITAGE: The simple fact is that I gave the member for Elizabeth, when sitting immediately next to her, the reasons why we were not progressing last year. If she does not remember that, I am sorry, but it is factual. We will continue to do our utmost—

Members interjecting:

The Hon. M.H. ARMITAGE: That is absolutely incorrect. We will continue to stamp out this scourge of child abuse, because there is absolutely no way that the Health Commission or the Government condones it. We will apply our money in the most effective way possible.

LOCAL GOVERNMENT ADMINISTRATORS

Mr BROKENSHIRE (Mawson): Is the Premier aware of examples in other Australian States where the State Government has moved to appoint either commissioners or administrators?

The SPEAKER: Order! It is a very broad question, and I hope that the Premier is aware of its basis.

The Hon. DEAN BROWN: I took the action of checking exactly what the situation was in other States of Australia, because I had heard that some people were trying to claim that to appoint commissioners or administrators to local government was an unprecedented undemocratic move. I looked around Australia to see what had occurred in at least four other States, and I am able to tell the honourable member that since 1986 in New South Wales the following four councils have had commissioners or administrators appointed: Sydney City Council, Warringah, Lachlan Valley County Council and Burwood.

In Victoria there are three: Melbourne, Strathfield Shire and Keilor. In Queensland there are four: the Gold Coast (1979), the heart of tourism—apparently, as a result of that development, the Gold Coast took off very considerably indeed—Cook, Torres and Burke. In Western Australia there are three: Perth (1994), Canning (1991) and Nedlands (1995). One can hardly describe this as being an unprecedented, undemocratic move when it has been done so often throughout the whole of Australia. The facts are there for people to see.

AUDITOR-GENERAL'S REPORT

The Hon. M.D. RANN (Leader of the Opposition): Has the Premier had discussions with Mr Ken MacPherson to explain the reasons for the Premier's strong public criticisms of the Auditor-General on 2 October which included claims that the Auditor-General's Report was 'short-sighted', 'simplistic' and an attempt to 'rewrite history' and, if not, does the Premier intend to personally raise his concerns about the Auditor-General's professionalism with Mr MacPherson?

The Hon. DEAN BROWN: The answer is, 'No', I have not had a discussion with the Auditor-General. However, I meet the Auditor-General on a regular basis to discuss a whole range of matters and, if he wishes to raise any matter with me, I am sure he will do so.

TRAXTION CLOTHING

The Hon. H. ALLISON (Gordon): Is the Minister for Industrial Affairs aware of an ambit claim made by the Textile, Clothing and Footwear Union against Traxtion Clothing owned by Mrs Lee Johnston of Mount Gambier—

Mr Atkinson interjecting:

The Hon. H. ALLISON: If it is not serious to you, it sure is to Mrs Johnston, brother.

The SPEAKER: Order! Comment is out of order.

The Hon. H. ALLISON: Is the Minister able to advise—

Mr Atkinson interjecting:

The Hon. H. ALLISON: Oh, shut up!

The SPEAKER: Order!

The Hon. H. ALLISON: As of today pure fantasy is illegal.

The SPEAKER: Order! The member for Gordon has the call and I suggest he not enter into debate with members opposite but ask his question and take the opportunity to briefly explain it.

The Hon. H. ALLISON: Is the Minister able to advise Mrs Johnston on her response to the union claim?

The Hon. G.A. INGERSON: I thank the member for Gordon for his question, because at least he cares about small business. One of the problems with the union movement in this country is that it likes to tread on little people and, in this case, particularly women. The union movement has a great record of ignoring women—

Members interjecting:

The SPEAKER: Order! The Leader.

The Hon. G.A. INGERSON: I am amazed at the response from the member opposite because I would have thought that he was a reasonable member of the union movement. To see the type of nonsense which is now occurring—

The Hon. Frank Blevins interjecting:

The Hon. G.A. INGERSON: I said I thought he was reasonable. This small business, which employs six people, received a letter in the mail asking that it meet a demand for $1 500 a week for 25 hours work, three years paid maternity leave—and, as I appointed out, all its employees are women—100 days sick leave and so on. We have heard all this nonsense in previous claims—

Mr Clarke interjecting:

The SPEAKER: Order! The Deputy Leader.

The Hon. G.A. INGERSON: We will get to that in a minute. The problem this nonsense creates is that small business, which does not understand the intricacies of the industrial system—

Members interjecting:

The Hon. G.A. INGERSON: I will tell the honourable member what happened. This type of nonsense goes on in small business on a daily basis. It arises because of the stupid regulations and rules which Keating and the Labor Government set down federally. Thank goodness, the new Employee Relations Act removes all this from current consideration—

Mr CLARKE: Mr Speaker, I rise on a point of order. The ambit log of claims to which the honourable member refers is a Federal log of claims for which this Minister has no responsibility.

The SPEAKER: Order! The Chair cannot uphold the point of order. I point out to the Deputy Leader—and I am sure the House would appreciate it—that, if the honourable member is so concerned about that Standing Order, he pay attention to other Standing Orders, particularly those dealing with interrupting other members of Parliament.

The Hon. G.A. INGERSON: The whole point of this exercise is that a Federal union is attempting to sink a South Australian company which is covered under State law. In fact, it is attempting to move State employees into the Federal system. As I said earlier, thank goodness we have legislation before the Federal Parliament to remove all this nonsense. It will put in place a provision whereby people will be able to choose whether or not they belong to a union and therefore whether they are affected by it. They will have the choice of whether or not they belong to a union and, if they do not, they will receive exactly the same conditions in the State system as in the Federal system.

As the Deputy Leader said, I have a responsibility under the Act, which is to tell employers what they have to do when they receive these nonsense claims. The stupidity of the Federal law is that they have to respond because, if they do not respond, there is a chance that they can get automatically roped in—even though this new company has no union membership. None of the women working in the factory wish to be members of the union and nor does the employer want them to be. It is a perfect hangover from the union muscle of yesterday. Thank goodness within the next month or so we will no longer have to put up with this nonsense. At the moment people such as Mrs Johnston and her staff have to employ lawyers to support them and join chambers to ensure they receive representation just because this type of nonsense is part of the Federal industrial law. Thank goodness that will change soon.

WORKCOVER

Mrs GERAGHTY (Torrens): Will the Minister for Industrial Affairs set the record straight and inform this House whether insurance agents can swap information on WorkCover recipients? A spokesperson for the Minister said in the *Advertiser* of 9 October 1996 that insurance agents could not trade information, yet WorkCover's self-insured and agent services manager in the same article states:

The Act allows agents to trade information.

So is it 'Yes' or 'No'?

The Hon. G.A. INGERSON: I believe that the statement I made is correct but because there is confusion—and WorkCover's lawyers have argued that the comment I have made is incorrect—we have sent a letter to Crown Law to obtain a legal opinion on my comment and, consequently, on the Act. If my comment happens to be incorrect, we will come to this Parliament and change the Act so that that clearly is the position. It was the intention of this Parliament that matters confidential to the client and the employer should remain that way.

FIREARMS

Mr BECKER (Peake): Will the Minister for Police advise the House on the progress being made in the introduction of new photographic licences for firearms owners? As part of the new firearms legislation, which was passed by this Parliament last session, there was provision for the old paper licences to be changed to photographic licences.

The Hon. S.J. BAKER: In my answer I will impart some information that the House might find interesting on an allied subject. A shocking incident occurred in Queensland involving a child being doused in petrol and set alight,

resulting in horrific burns. The alleged offender was a Mr Streeton. There was some media speculation that Mr Streeton had come from South Australia and that he was a habitual offender in similar areas to this offence, with some implications of arson. I assure the House that Mr Streeton is not on record as being either an offender or a victim in South Australia. Another name was put forward, with the suggestion that it may have been changed. That was also checked out, and they are completely different people. I do not know where the media speculation started, but the facts do not check out at this stage.

On the issue of firearms and firearms licences, progress continues to be made on the collection of firearms. As at 16 October, 26 759 firearms have been handed in, for compensation of $12.13 million in total. Collection and payment in this State has been the most efficient, effective and smooth operation of any State, and three States are yet to start that process. I wish to thank the police for their marvellous efforts and also the public for their cooperation in the collection of those firearms.

In relation to licences, there was some consternation that four pictures were to be taken, and someone asked what was to happen to the other three. I assure the House that the other three photographs are to be shredded and that the four photograph process is merely to pick out the best one for identifying the licence holder. Anyone who goes through that process can be assured that the other three photographs will be destroyed.

Another item I wish to relate is that, whilst we have made very significant progress on the collection of illegal firearms, the progress on licences has not been as strong. We would have expected about 100 000 people to reapply. To date only 23 426 have come through either the police, the motor vehicles branch or the post office. We believe that many members of the public are not taking this seriously and that they may wait until 8 November to apply. That will cause everyone a grave amount of difficulty. Members of the public have all been sent information and their notices. It is a simple process. We do not want the system to be clogged at the beginning of November, because it simply will not cope. I ask members of the public who have received their renewal notices to make sure that they comply, because it will make life more difficult for them if they do not.

WORKCOVER

Mrs GERAGHTY (Torrens): Given the Minister for Industrial Affairs' previous answer, if his position is maintained, what action will he take against the insurance agents and WorkCover personnel who have violated WorkCover recipients' rights of privacy and confidentiality by swapping private and confidential material amongst insurance agents?

The Hon. G.A. INGERSON: As I have said in my reply, the Government is taking legal advice. Once we have that legal advice I will be better able to answer the honourable member's question.

CHILD ABUSE

Mr EVANS (Davenport): I direct my question to the Minister for Family and Community Services. Following earlier questions, what action is proposed and what action has been taken to assist with the alleviation of child abuse?

The Hon. D.C. WOTTON: Because of the importance that we give to this subject, it is necessary to put some detail on the record, and I appreciate the member for Davenport's question. In answer to a previous question, I referred to some of the action that has been taken by the Department for Family and Community Services. I want to refer to some action that is being taken in other agencies and also some of the more detailed information that can be furnished regarding assistance that is being provided by the FACS agency.

Members of the House would be aware that only recently the Attorney-General announced a new $300 000 inter-agency abuse assessment panel pilot program for the southern suburbs. The panel will oversee the referral, assessment and therapy process in allegations of sexual abuse. This is a pilot program which we have been working on for some time and which I believe will bring in a considerable amount of information that has long been sought. Legislative reform has already occurred, including a penalty of life imprisonment for the persistent sexual abuse of a child. It clarifies the definition of rape and other sexual offences so that young victims are clearly protected by the criminal law. Again, that measure has been talked about for some time, and it is this Government that has delivered in that area.

As far as Family and Community Services go, we are implementing a major new response mechanism to better identify children at risk. I point out that the report to which the member for Elizabeth referred earlier was called for by this Government; I called for that report and for suggestions to be brought forward. One of the major difficulties that I had with the report was that it did not address the definition of child abuse, and we are now addressing that matter. In addition to our own resources, we fund 130 agencies under the Family and Community Development Program to the tune of $4.4 million, dealing with the crisis end of prevention. Another $700 000 is also provided under the early intervention and substitute care program.

We are linking with and contributing to important national strategies, including a clamp-down on paedophilia and an interstate reciprocal responsibility for the care of those under child protection orders. In addition, we are also able to tap into other important Federal initiatives, such as the $4.3 million Federal budget allocation for a national child abuse prevention strategy and $6.1 million for marriage and relationship education.

As I said earlier, the care of children in this State is the greatest priority that any member of this Government can have. It is certainly my very highest priority as Minister for Family and Community Services. I recognise our responsibilities. The Government is addressing these issues; no-one should be hoodwinked into thinking that we are not. Nobody should believe that this is an easy issue to deal with, but I believe that the matter is being addressed by this Government and is being given the very highest priority.

MINISTERS' CODE OF CONDUCT

Mr ATKINSON (Spence): Given the current controversy surrounding the shareholdings of Commonwealth Ministers, is the Premier satisfied that all his Ministers have complied with the Ministers' code of conduct with regard to the divestment of all shareholdings that represent a potential conflict of interest owing to the Ministers' responsibilities; and has he granted an exemption for such shareholdings to any Ministers in his Government?

The Hon. DEAN BROWN: We have a code of conduct that requires two areas of disclosure by any Minister. The first is the public disclosure on the parliamentary register,

which is a very open disclosure and which goes further than any other State in Australia. We require every Minister—indeed, every member of Parliament—to disclose their shareholdings as well as any shares held by any trust which is controlled by or under the influence of any member of Parliament or the spouse of a member of Parliament. Therefore, I think you will find that our requirements in this Parliament—and that information is available to other members of Parliament—go further than those in the Federal Parliament. Secondly, there is a requirement for Ministers to submit to me for holding in the Cabinet office details of any pecuniary interests and all details of shareholdings, other properties and so on held by them. That is a very detailed assessment and is held by the Cabinet office.

The honourable member asks whether there is any special exemption. Ministers must make a full declaration; their having made a full declaration to the Cabinet office, it is held by the Cabinet office. If a Minister ever has a shareholding or any other interest that might at any stage cut across that, they declare it in the Cabinet room, and they must leave the Cabinet room before discussion starts. That has occurred. For instance, on one occasion a member was a member of a superannuation fund that was under discussion. So, that member of the Cabinet had to leave the Cabinet room while that discussion took place. We have adhered to that very strictly indeed.

In terms of any shareholdings, I would not know whether any Minister had shareholdings that had not been declared but, if that occurred, the Minister would automatically be dismissed, if it was valid. If it was a clear case of the Minister not even being aware of the shareholding, that is another matter, but I am saying that, if a Minister makes a deliberate attempt not to disclose fully their shareholdings, there would be no option other than dismissal.

CONSTRUCTION INDUSTRY ADVISORY COUNCIL

Mr ROSSI (Lee): Will the Minister for State Government Services provide details to the House of the restructuring of the Construction Industry Advisory Council and how this and a forthcoming meeting of Construction Ministers will benefit the construction industry in South Australia?

The Hon. W.A. MATTHEW: I thank the member for Lee for his question. He has been watching with interest the restructure of this important Government body. The Construction Industry Advisory Council has traditionally had the primary responsibility for advising the Government on policies which will support initiatives of the South Australian building construction industry to develop a viable and long-term future for this important sector of the State's economy. That committee has now been totally restructured and the new committee has new terms of reference. The new committee comprises nine representatives, all of whom have been drawn from the private sector.

I am pleased to advise the House of the names of those nine members. They are: the Chairman, Mr Campbell Mackie, Managing Director of Savant Pty Ltd; Ms Joanne Staugas, Partner, Finlaysons, specialising in construction law; Mr Andrew Fletcher, Kinhill Engineers; Mr David Gray, Maunsell Pty Ltd; Mr Phil Tregenza, Built Environs Pty Ltd; Ms Sandra Renneisen, Alpine Construction Pty Ltd; Mr David Lindner, Nilsen Group; Mr John Bowyer, Hansen Yuncken Pty Ltd; and Mr Jan Wilson, Baulderstone Hornibrook.

In undertaking its primary role of providing leadership and direction to the industry in South Australia and initiating development strategies, it will drive the implementation of best practice and reform initiatives. The council will also draw on a broader forum of industry representatives, which will be established in the near future.

The honourable member also asked about the Ministerial Council of Construction Ministers to be held in Adelaide tomorrow. Tomorrow, Commonwealth, State and Territory Ministers responsible for construction will meet to discuss a wide range of issues designed to improve Australia's $45 billion to $50 billion construction and building industry. At the top of the agenda for tomorrow's meeting is a recommendation to endorse the proposed national action on the security of payment in the construction industry for long-term improvement of security of payments. The Ministers will also discuss a national code of practice and opportunities and challenges for the industry in Australia.

Construction is the sixth largest industry sector that makes up the Australian economy, and it obviously makes a significant direct national contribution and has a significant influence on other areas of our nation's economy. Given the importance of this industry in both economic and social terms and the influence it has on the cost and efficiency with which Government services are delivered, Governments obviously have a keen role in facilitating the formulation of a development strategy that is capable of being implemented by a majority of stakeholders irrespective of their role, size or scope of operation within the industry. I look forward to reporting back to the House on the progress made after tomorrow's meeting.

MINISTERS' CODE OF CONDUCT

Mr ATKINSON (Spence): I ask the Premier: have any Ministers of his Government divested themselves of shareholdings that have the potential for conflict of interest by divesting to trusts? The 1994 Cabinet handbook issued by the Brown Government states that divesting to a trust is acceptable. The 1993 Cabinet handbook issued by the Arnold Labor Government states:

> Transfers to spouses/family members/nominees/trustees are an unacceptable form of divestment.

The Hon. DEAN BROWN: I have already indicated to the House that our own pecuniary interest declaration of this Parliament requires members of Parliament to disclose the shares they hold, the shares that are held in the name of their spouse, and the shares that are held in the name of any trust. Therefore, if a trust is held, any property or shares held by that trust must be declared. There is nothing unusual about that: the declaration requires it, and all members of this Parliament have signed that declaration. For instance, I have an orange orchard in a family trust: it is there on the register. I have declared the land held by that family trust on my register. There is nothing secret about that. It is there for everyone to see on the register of the Parliament.

What this Parliament has said, and quite rightly, is that any shares held by a trust, where the member of Parliament or the spouse of the member of Parliament has control over that trust, are effectively shares held by the member. That is the standard that has been put down, and the same thing applies at Cabinet level. If shares are held by what you might describe as blind trust as required under the British parliamentary system where the spouse of the member has no control over the trust, that is an entirely different matter. In

that case, the member or the spouse of the member has no control or influence over what is held by that trust, and that is the important difference.

An honourable member interjecting:

The SPEAKER: Order!

JOHN REYNELL RESTAURANT

Mrs ROSENBERG (Kaurna): Will the Minister for Employment, Training and Further Education detail how a wine pioneer is involved in training young South Australians for jobs in tourism and hospitality? The Minister will open a TAFE training restaurant dedicated to a nineteenth century wine pioneer at the Noarlunga Campus of TAFE on Friday.

The Hon. R.B. SUCH: Tomorrow, I will open the John Reynell restaurant, which is located on the Noarlunga Campus of the Onkaparinga Institute of TAFE. Appropriately, it is named after John Reynell, who was one of the pioneers of the wine industry in South Australia. In fact, he planted his first vineyard in 1838, just two years after the colony was established here, and his first vintage was produced in 1842. If anyone has a bottle, I would be interested to see it, because it should be ready for drinking. John Reynell was a very shrewd business person who had much foresight and vision relating to the wine industry and other areas, and it is appropriate that we commemorate his name in this restaurant.

TAFE has nine training centres throughout the State which are focused on training in commercial cookery and a range of related activities including training chefs at the Regency College. The major training establishments, as I have indicated, are at Regency, which has two major training restaurants, Tea Tree Gully, the Adelaide Institute of TAFE and now Noarlunga. We need one in the northern suburbs to complete the city crown, if you like.

In the country areas, we have facilities at Port Lincoln, Mount Gambier and Berri, and they train particularly in relation to commercial cookery. There is also a facility at Nuriootpa which is of a very high standard. The member for Custance can attest to the quality of that food, because he has shared in that on many occasions.

The opening of the training restaurant at Noarlunga will be attended by many people from the wine industry, and it is appropriate that we celebrate the excellence of wines from the south. I know that the member for Mawson is a great supporter of that region, which produces some of the best wines in Australia—I guess the member for Mawson would say the best wines—and tomorrow we will have an opportunity to see how good his taste really is. Once again I would like to congratulate all those involved in establishing this new training restaurant and invite members to participate in the future not only of that restaurant but of one of the other training restaurants in TAFE.

ENVIRONMENT PROTECTION AUTHORITY

The Hon. D.C. WOTTON (Minister for the Environment and Natural Resources): I seek leave to make a ministerial statement.

Leave granted.

The Hon. D.C. WOTTON: Earlier today in the House the Deputy Leader of the Opposition requested information into action that has been taken by the EPA since the commencement of the legislation in May last year. We are seeking that information, but I can inform the House that 153 environment protection orders have been issued since May 1995 and six clean up orders have been issued. In addition, 230 environment improvement programs and 49 voluntary audits have been submitted. Also, a company is presently before the Magistrates Court charged on 35 counts under the Waste Management Act and, in addition, the Environment Protection Authority is evaluating possible prosecution of at least four other companies and one other individual. I will seek further information and provide it to the honourable member.

GRIEVANCE DEBATE

The SPEAKER: Order! The question before the Chair is that the House note grievances.

Mr ANDREW (Chaffey): I wish this afternoon to compliment an annual event in the Riverland, the Riverland field and gadget days, held in September.

Members interjecting:

Mr ANDREW: I will explain the 'gadget' inference shortly. I, along with people of the Riverland communities—many from interstate and from around South Australia—attended the thirty-ninth annual field days. I also took the opportunity to have a site myself. Many constituents came along and, in a casual way, indicated it was a good opportunity for them to catch up with me on a number of issues. They said particularly, using the cliche, 'I've been meaning to telephone you on this.' It was a very useful opportunity to make communication with my constituents. About 550 sites were occupied by exhibitors. Over 30 exhibitors were on a waiting list and could not be accommodated on the site. I understand that an additional 50 sites are planned for next year in response to demand, which is continuing to grow.

As many would be aware, agricultural field days throughout Australia have been increasing in size in recent years, and primary producers want the opportunity to view and compare goods and services available to their industry. It provides exhibitors with an excellent opportunity to reach their target audience. The growth and success of the Riverland field days is certainly part of this trend, and I commend the organisation for its progress in this regard, particularly this year.

It is also worth noting—and I want to put on the record—that there have been a number of significant and important changes to the field days this year. First, there has been a name change. Colleagues referred to my use of the word 'gadget'. This is a colloquial term that has been used over the 39 years of the field days to indicate the innovative and entrepreneurial ability of local growers to invent pieces of machinery, additions or adaptions to machinery that have been a valuable adjunct to the management of their horticultural properties. To be consistent with what is progressing in other areas, such as the Eyre Peninsula and Yorke Peninsula field days, the name was changed this year to the Riverland field days.

The other significant change this year is that previously the event was held and run by all the major Riverland towns on a rotational basis, being organised by their respective agricultural bureaus. This was the first time that a regional bureau committee had been responsible for the organisation,

with representatives coming from each of the town bureaus, both from irrigation and from the dry land irrigation bureaus in the region. This has been a unique change, and the cooperation has been impressive. Also, plans are well under way to decide on a permanent site for the future. This in itself is a significant innovation. The committee has taken a lot of initiative over the past 12 months. Effectively, it has called for applications for expressions of interest from the various towns and local government areas to provide the option for a permanent site, and the committee has narrowed it down to two sites—one in Loxton North and one in the Berri-Barmera region. I understand a decision will be made in the near future. Unfortunately, because this concept had not progressed prior to the event, Loxton was again chosen to host the 1997 field days. Hopefully, a new, permanent site will be available for 1998.

This year was the first time a $2 entry fee was charged, with the profits to go into redevelopment and to be used by the organising committees to set up the appropriate infrastructure for a permanent site planned in the future. My understanding is that there was no adverse reaction to this first time fee and that attendees obviously felt they had good value for money. It is hoped that this money, some of which will be used to provide the infrastructure for a permanent site, will be used by the committee to allow growers—whether horticultural or agricultural—to adapt further technology for horticulturists in the region. I commend the organisation for its continuing progress and vision in relation to this event in the near future.

The SPEAKER: Order! The honourable member's time has expired.

Ms HURLEY (Napier): Yesterday in the other place, the Hon. Sandra Kanck described an incident involving me at the end of a debate on the Development Bill in the last session of this Parliament. I do not actually recall the incident described, but obviously Ms Kanck has nurtured the memory all these months. She detailed the expressions on my face and inflections in my voice, and spent some time on the meaning of my use of the word 'we'.

The SPEAKER: Order! I do not want to restrict the honourable member at all, but she is aware that she cannot refer to a debate in another place or cannot reflect upon a member of another place. I understand the difficulty the honourable member has, and the Chair does not want to be difficult. I merely point that out.

Ms HURLEY: Thank you, Sir. Far be if from me to deny any of this. It is clearly embedded in Ms Kanck's memory—and I would not dare suggest it might have become embellished with the passage of time—for Ms Kanck parleys five words into a conspiracy theory between the Liberal and Labor Parties. Ms Kanck's version is that she was walking in a friendly and insouciant way around the back of the other place when she heard me say to the Minister for Housing, 'Congratulations. We got it through.'

Mr Meier interjecting:

Ms HURLEY: Exactly. She acknowledges that what had just been got through was an amendment which removed the Collex development at Kilburn from the provisions of the new Bill. That development is a source of great concern to the residents of Kilburn, and they were worried that the new provisions might make approval easier. The Deputy Leader of the Opposition and member for Ross Smith certainly lobbied hard for that amendment, and was successful. Ms Kanck was not involved in negotiations on the Development Bill. She may not know how protracted the discussions were and how many amendments were made to the Government Bill. It was a long and tiring process, and I felt that the Opposition had achieved a good result. It does not surprise me that I would have expressed to the Minister some relief that the Bill was finally through. Members in this place need to be careful of what they say not only when they speak to journalists.

We all know the value of getting your message across but also the dangers of being taken out of context, of jocular asides being used as serious remarks, and other traps for the unwary. I have to say that now we have to exercise the same caution in the corners and corridors of Parliament House, because not only may fellow members be eavesdropping on conversations but some members may use those conversations in the refuge of the Chamber.

Ms Kanck was apparently distressed by my words to the Minister. I can tell her that I am mildly distressed that she has chosen to take my words, privately uttered, and distort them for her political purposes in the Legislative Council. I am perhaps more distressed—

The SPEAKER: Order! The Chair has been tolerant. The honourable member is now going too far. The Chair understands, and I think most members understand, how the honourable member feels, but the Standing Orders provide that she has to be very careful. I suggest that she rephrase further comment to ensure that she does not go any further than she has gone.

Ms HURLEY: I will conclude by saying that I am distressed that my breach of privacy was used for such a weak argument. It is certainly a long and unlikely bow to draw between my five words and an ongoing conspiracy between the Labor and Liberal Parties. The Democrats are not alone in dealing with the Government on legislation and in negotiating arrangements. The prominent Bills that come to mind are the industrial relations and shop trading hours Bills. I think Ms Kanck is not in the moral position that perhaps she thinks she is to comment on my actions.

Mr WADE (Elder): I received a pamphlet in the mail the other day put out by some poor soul who is obviously out to misinform the people for his own devious means. This pamphlet was addressed to the resident and commenced by asking the question: how many of us would feel safe, at home or when we are out, leaving our doors open? Well, unless you are Arnold Schwarzenegger or Jean Claude Van Damme, I would say every person would reply 'None' to that question, because no-one feels safe with their door left open.

Having set the tenor of this kind of pamphlet, the person concerned went on to say that Dean Brown is cutting police numbers. When we think of members of the Police Force, we think of a person who is normally in uniform, sometimes under cover, out there preventing crime, fighting crime on our behalf and overall ensuring that we live in a safe social environment. Have police numbers been cut from non-core activities, such as speed camera operations? Well, yes, they have, because the Government can see no reason why a fully trained experienced and dedicated professional crime fighter should sit behind a camera.

Have we cut the police from non-productive activities such as attending to false alarms, involving thousands of false alarms per year? Yes, we have, for the same reasons as we have cut the numbers in connection with speed cameras. We have moved these professional and dedicated officers into front line core police operational duties. In fact, since the

Liberal Government was elected, we have added 135 police to full operational duties. This figure was confirmed by the Deputy Premier on 19 June this year when, on page 9 of the *Hansard* report of Estimates Committee A, he stated:

I advised the House in April that in the front line operational area we were 135 better off than under the previous Government.

The person who put out this pamphlet—this fear invoking trash—did not bother to check the facts, or perhaps he knew the facts but chose not to let them get in the way of his fantasy. He then goes on to say in the pamphlet:

Dean Brown is the first Premier in South Australia's history to make police officers redundant.

No police officers have been made redundant, and this person does not understand what the word 'redundant' means. They have not been made redundant under this Government, and the police advise they are not aware of any redundancies in recent history. Our pamphleteer is wrong again but decided not to change his message of misinformation. He continues:

I know of stories of police in the Elder area being issued bus passes because patrol cars were not available.

I have always considered imagination to be of equal importance to intelligence, but can you imagine police officers catching the TransAdelaide bus to go on patrol and, when they espy a speeding motorist, lean out of the window, strap the little magnetic flashing light on the side, tell the bus driver to crunch down the gears and give chase? Can you imagine this high speed chase between a stolen V8 Commodore and a TransAdelaide bus, full of police officers on duty with their bus passes? I assume that the bus would still have to stay on the defined bus route and make the scheduled stops to pick up passengers.

This pamphlet made us all laugh. We had a real good laugh over the whole thing. Half of what was said was true. Bus passes are issued to all sworn SAPOL members. In fact, the history of bus passes issued to members commenced in the 1950s, and free on and off duty travel for uniformed and plainclothes officers was approved by the then Labor Government on 1 July 1990. This pamphlet is a trashy publication and should not have been distributed to the people in Elder.

The SPEAKER: Order! The honourable member's time has expired.

Mr EVANS (Davenport): I wish to place on record my support for the remarks made earlier by the member for Napier regarding some alleged comments of the Hon. Sandra Kanck in another place. I understand that these comments relate to the Labor Party apparently reversing its mind on some sections of the Development Act, and the Democrats actually had the gall to criticise the Labor Party for changing its mind.

I want to remind members of the record of the Democrats, in particular in relation to shop trading hours. I happen to have a leaflet issued prior to the last State election by the Democrats' Upper House candidate, Judy Smith, who wrote to all the local businesses saying that the Democrats 'will not vote for extensions to trading hours, no ifs, no buts; small retailers do not need any more committees'. This leaflet further states that Mrs Smith did not mind being regarded as a single issue candidate on this particular matter. The only issue on which this particular candidate ran was the shop trading hours issue on behalf of the Democrats. The Democrats' policy prior to the last election states quite clearly:

Say 'No' to extra shop trading hours.

The Australian Democrats' position was as follows:

The Democrats do not support the Government's recent extension of shop trading hours. The Democrats do not support Sunday trading.

So, it was made very clear by the Australian Democrats to all concerned during the election campaign that they would not support Sunday trading. The policy then went on to outline a number of scenarios that could possibly arise under Sunday trading, and these included more small business bankruptcies, more unemployment, no local shops, less choice of consumers, bigger monopolies, more money leaving South Australia, etc. The Democrats painted a very clear picture of doom and gloom if Sunday trading went through. At the same time, the Democrats ran a petition, headed 'Save your local shop' and stating:

Mike Elliott [a member in another place, as members may well realise] will present the following petition to the Premier the day following the next State election.

Well, it is no surprise to anyone that I am advised that the Hon. Mike Elliott has never presented the petition. It is interesting when members of Parliament run around during an election campaign with petitions on certain issues, are then elected through the back door into another place, and then do not, in nearly three years, submit the petition in question. It is quite an interesting ploy, and it is a habit that the Democrats are adopting.

I am advised that the Democrats also ran a petition for reform of marijuana laws, yet I understand that that petition has never been presented to either House of Parliament. This is the Party that runs on the philosophy of, supposedly 'keeping the bastards honest'. How honest is it to run around communities flaunting petitions but not then presenting them? That is very disappointing. On 19 May 1995 the Democrats said that they opposed Sunday trading. Surprise, surprise! On 8 June 1995, after two years of opposing the extension of Sunday trading, the Hon. Michael Elliott put out the following press statement:

Sunday trading wins. City stores will open on Sundays.

That would be the greatest backflip of all time. It is the height of hypocrisy for the Hon. Sandra Kanck to criticise the Labor Party for doing backflips when her own Party is an expert at it. It is no wonder that the very next day the SDA put out a leaflet to all the shops it could find stating that the Democrats had knifed them in the back, and I quote:

Last night the Parliament passed legislation to allow Sunday trading. This decision was only made possible by the Australian Democrats.

Everyone in this Chamber knows my view on this issue. I told the electorate of Davenport that I would not vote for it and I did not do so, and it unwise for the Democrats to criticise the Labor Party for doing backflips. The Hon. Sandra Kanck is on record as saying that certain Parties are poll driven yet only this week it was reported in the press that she intends to introduce a referendum for euthanasia because '74 per cent of the people agree with it'. That shows how hypocritical the Democrats are. I endorse the comments made by the member for Napier.

Mr BUCKBY (Light): I wish to draw the attention of the House to traffic rules. One of my constituents, Mr David Norton, who is the owner-proprietor of Gawler Driving School and a trained driving instructor, visited me recently and mentioned that when people see him to upgrade their licence from a car licence to a heavy vehicle licence or an articulated licence they must submit to a driving test questionnaire. He has been doing this work for a number of years and has some 500 completed questionnaires which have an astonishing 100 per cent failure rate. He gave me one of the

tests and said, 'I wonder whether the average person in the community given the test would be able to pass it.' I told him that I was quite sure that I probably could not because when it gets down to the nitty-gritty of knowing the speed limit past a school bus or when entering a road I really could not tell him. When I obtained my learner's permit a long time ago, perhaps I could have, but certainly not now.

I cannot give members the diagrammatic questions, but I will outline some of the questions so that members and those who read Hansard, can give themselves a mental test as to whether or not they would pass. The question relates to speed limits, as follows:

What speed limit is applicable to a vehicle:

- (1) entering a road from private land;
- (2) passing a stationary school bus when children are boarding or alighting;
- (3) travelling outside of a town area for a full licence holder; and
- (4) passing a tram which is boarding or alighting passengers?

I will leave it to members to work out whether or not they know the answers and I will come back with those answers later. The next question related to the give-way rules. In looking through a selection of about 20 or 30 questions, on average there are four diagrams in which you must indicate whether A gives way to B. On average, 75 per cent of the answers were wrong which is quite concerning when members think of the number of times at intersections and other locations motor vehicles join traffic or cross traffic, yet 75 per cent of the people who are upgrading their licence get those answers wrong. The next question deals with school crossings, as follows:

A driver on approaching a school crossing when the flashing lights are operating must slow down to a speed of . . . [fill in the missing spaces] kilometres per hour for a distance of. . . metres on the approach side only.

It then goes on to deal with line markings, right-hand turns and school signs, as follows:

What is the speed limit between school signs? During which hours does this speed limit apply?

In relation to alcohol and drugs:

What are the three offences under the Road Traffic Act related to alcohol and drugs?

As I said, there was a 100 per cent failure rate among those persons who did this test, and that is a matter of some concern. It has been mentioned in the House and in another place in previous years that perhaps we should consider bringing people back for a written driving licence test to ensure that they actually know the road rules. In many cases that might well result in avoiding a large number of accidents occurring on our roads.

However, I go even further than that and point out that in this day and age it may be worth while considering compulsory training in CPR methods. In cases where a person was called upon to help at an accident scene, or even within our own daily lives, the ability to give CPR would be an asset. I will be passing this information onto the Minister for Transport, Diana Laidlaw, in another place with a view to the possibility of introducing driver testing. It may be that every five to seven years a regular test should be held so that people can refresh themselves on the road rules. This may well lead to reducing the number of accidents occurring on our roads.

Ms STEVENS (Elizabeth): I want to spend these few minutes reflecting on the South Australian child abuse prevention strategy and the answers that I received today in the House when I asked both the Minister for Family and Community Services and the Minister for Health about two of the 17 recommendations. One of the first things that we read in that report was that there was a criticism of resourcing of the Department for Family and Community Services. Essentially, the report stated that there was a severe and significant under-resourcing of that department, so much so that it was not able to properly perform its social or statutory responsibilities in terms of child protection. This is a very serious issue, as the Minister himself acknowledged.

The Department for Family and Community Services, which is the front line agency for child protection, has a statutory responsibility. Our information is that up to 30 front line social worker positions have been cut from that department by this Government, which means that district centre officers of the department are forced to prioritise child abuse notifications. They are forced to see only the most severe cases. This means that there are many children in our community for whom there is no recourse and alleviation of that situation.

The other point made in the report was that not only is there a serious lack of funding in the department but also there has been a cut-back on vital services within the community that picked up on the support of families and the support of families in crisis, such as the CareLink program at Davoren Park (and the report specifically referred to that program). This program, which was a casualty of a decision by the Minister for Family and Community Services, was a joint program involving the Education Department, FACS and the Health Commission. As a result of FACS pulling out of its part of that funding, the program collapsed, and there is nothing to take the place of that program.

Another program, the Para Districts Counselling Service, in the same area of Elizabeth was cancelled. This program was funded by Health and had been running for 30 years. It was cut by the Health Commission and the Minister for Health. That program was also removed from the community, so that avenue of support has been taken away. While these things happened, the people of the northern suburbs were assured that the Minister's brand new northern suburbs home visiting program would be on deck and would take the place of those programs and would do it better. However, last year the Minister for Health backed off on the world renowned home visiting program that was applauded everywhere, including his own department.

One reason out of 15 or 16 reasons why the program was successful was that it prevented child abuse. We had the Minister for Health saying that, because one of the objectives of the program was the prevention of child abuse, it would put people off and so he cancelled the program. What sort of commitment is that to addressing child abuse? The report put forward 17 recommendations. It is a complex issue, and it is not good enough for the Minister for Family and Community Services to say, 'We are about the same as everyone else in Australia.' We need to address this matter.

Today, we heard that the Government did not have an answer for two out of the 17 recommendations. Is the Government going to consider any of them? The Minister wants to talk about only superficial programs such as community service announcements, pamphlets and information available on the Internet. That sort of thing is great when everything else is working. However, when we have a serious breakdown in our community and front line troops are required, the positive parenting campaign is not a priority.

RACIAL VILIFICATION BILL

Returned from the Legislative Council with amendments.

STATUTES AMENDMENT (TAXATION ADMINISTRATION) BILL

The Hon. S.J. BAKER (Treasurer) obtained leave and introduced a Bill for an Act to amend the Debits Tax Act 1994, the Financial Institutions Duty Act 1983, the Land Tax Act 1936, the Pay-roll Tax Act 1971, the Stamp Duties Act 1923 and the Taxation (Reciprocal Powers) Act 1989. Read a first time.

The Hon. S.J. BAKER: I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill forms part of the package to reform the administrative aspects of the State's taxation Acts. It is closely linked to the Taxation Administration Bill on which I have just reported, and is of course dependent on the passage of that Bill. The legislation contained in this Bill is designed to standardise the administrative provisions relating to Pay-roll Tax, Stamp Duties, Land Tax, Financial Institutions Duty and Debits Tax.

As the Taxation Administration Bill embodies many of the administrative provisions contained in the primary taxing Acts, it is necessary to amend those Acts in order to reflect the changes.

This Bill will effectively remove the provisions relating to assessments, refunds, penalties, objections and appeals, recovery, record keeping, tax inspectors and other miscellaneous matters from those other Acts which will be covered by the *Taxation Administration Act*. In summary, this Bill is consequential on the proposals contained in the Taxation Administration Bill.

Mr QUIRKE secured the adjournment of the debate.

TAXATION ADMINISTRATION BILL

The Hon. S.J. BAKER (Treasurer) obtained leave and introduced a Bill for an Act to make general provision for the administration and enforcement of taxation laws; and for other purposes. Read a first time.

The Hon. S.J. BAKER: 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.

In 1994, as part of this Government's commitment to micro-economic reform, approval was given to the South Australian State Taxation Office to participate with the tax offices of New South Wales, Victoria, Tasmania and the Australian Capital Territory in planning a rewrite of the *Stamp Duties Act*.

As part of the Stamp Duties Rewrite project, it was recognised that each participating jurisdiction's taxation legislation offered differing administrative procedures both in substance and in form. These variations have resulted in administrative difficulties and uncertainty in the business community particularly when transactions involve a number of jurisdictions. For example, the record keeping requirements in the *Pay-roll Tax Act*, vary from those in the *Stamp Duties Act*, and furthermore are not consistent between jurisdictions.

As a means of addressing this uncertainty and difficulty it was decided to rationalise the administrative procedures currently embodied in a variety of forms in five taxing Acts, and present them under one Act, a *Taxation Administration Act*. In so doing, we will not only provide consistency across the tax heads, but wherever possible conformity among the jurisdictions involved, thus considerably reducing duplication, uncertainty and red-tape.

In preparation of this Bill, extensive public consultation was undertaken with key industry groups and professional bodies and their comments have been taken into account. All parties to the consultation saw the development of this Taxation Administration legislation as a major vehicle for achieving effective and professional taxation administration. The Government extends its thanks to those industry groups and professional bodies for their contribution to the consultative process.

The Bill now before us standardises administrative provisions relating to Pay-roll Tax, Stamp Duties, Land Tax, Financial Institutions Duty and Debits Tax. The administrative provisions in the Bill deal with the matters of Assessments, Refunds, Interest on Unpaid Tax, Penalties, Objections and Appeals, Special Tax Arrangements, Recovery, Record Keeping, Miscellaneous issues and Tax Officers.

A consequence of this legislation is that the *Pay-roll Tax Act*, *Stamp Duties Act*, *Land Tax Act*, *Financial Institutions Duty Act* and *Debits Tax Act* will need to be amended to remove those provisions proposed to be covered by this legislation. I shall also be introducing the *Statutes Amendment (Taxation Administration) Amendment Bill*, the purpose of which is to make the necessary consequential amendments to those other Acts.

While much of the legislation in this Bill broadly reflects the current administrative provisions, the preparation of the Bill has provided the opportunity to make significant reforms.

I will now move on to highlight the significant reforms contained within this Bill.

The standardisation of the assessment process will provide procedural efficiencies within the State Taxation Office and will also provide consistency for taxpayers and their agents.

Provisions to clarify refund procedures have been introduced which standardise, at five years, the time in which an application for a refund of overpaid tax can be made. This brings the legislation into line with the *Income Tax Assessment Act* of the Commonwealth, providing a further standardisation for the business community. Additionally, the Bill proposes that the Commissioner of State Taxation, with the taxpayer's consent, be able to use a refund amount to off-set a future tax liability. As an example, this would allow an overpayment of Pay-roll Tax in one month to be off-set against the following month's liability, instead of the taxpayer having to apply separately for the refund.

Current taxing legislation provides different methods of penalising taxpayers who pay their taxes late, or who fail to pay them at all. Under the proposed legislation, an interest charge will apply in all cases of late payment of tax, and will comprise two components. These components are a 'market rate' which will mirror the rate set out in Section 214A(8) of the *Income Tax Assessment Act 1936* or, if considered appropriate, a rate specified by the Treasurer of South Australia. The 'market rate' for the half year to June 1996 was 11.5 per cent per annum. This 'market rate' component is designed to reflect the 'opportunity cost' to the Government of not being able to use the revenue for the period that it remains unpaid. The second component will be 8 per cent per annum and is intended to act as a disincentive to a taxpayer using the Government as a defacto lending institution.

In instances where the non-payment of tax is detected, penalty tax will apply. The Bill proposes that this rate will be a flat 75 per cent of the unpaid tax in instances of deliberate non-payment, and 25 per cent for any other situation. No penalty tax will be payable where the Commissioner is satisfied that the non-payment was not deliberate and did not result from a failure of the taxpayer to take reasonable care to comply.

The rates for both interest and penalty, adopt a realistic approach to ensuring timely compliance with taxation laws. These new penalties substantially reduce many current more severe imposts, eg., pay-roll tax which can be up to 300 per cent, while reflecting a balance between cost recoupment, and encouraging taxpayers to meet their obligations.

The Bill will also provide for the Commissioner of State Taxation to approve of special tax return arrangements. This will provide the Government and business, with greater flexibility in complying with tax legislation and take into account future developments in electronic communications. It is envisaged that in the future, many taxpayers and/or their agents will satisfy tax requirements by transferring information and cash from a computer in their own office, together with an electronic fund transfer direct to the State Taxation Office and Reserve Bank respectively. This legislation will ensure that South Australia will continue to be well placed to take advantage of current and emerging technology.

Provisions in the Bill relating to the Collection of Tax, Record Keeping and General Offences, Tax Officers, Investigations and Secrecy, remain substantially the same as are currently found in existing taxation legislation. However, some changes have been made to standardise the period for retention of records at five years,

and to clarify the methods of service of documents both on, and by, the Commissioner.

The Objection and Appeal provisions contained in the Bill substantially streamline the existing provisions contained in the various tax Acts, by making the provisions consistent across the five tax heads. Furthermore, the time allowed to lodge an objection or appeal, has been standardised at 60 days, as currently allowed under the *Pay-roll Tax Act* and *Debits Tax Act*. This means, for example, there is a very significant extension proposed of the period currently allowed under the *Stamp Duties Act*, thus providing a more realistic timetable for business. Under this legislation all objections will have to be lodged with the Minister, and all Appeals are considered by the Supreme Court. As a result, the existing Pay-roll Tax Appeal Tribunal will be disbanded after attending to any outstanding Appeals, thus reducing costs and time involved with the current Pay-roll Tax objection process. Appeals will not be restricted to the grounds of the original objection, again taking a more realistic approach to the process.

It is intended that this Bill will operate from 1 January 1997 in relation to the *Debits Tax Act* and *Financial Institutions Duty Act*, and from 1 July 1997 for the *Pay-roll Tax Act*, *Stamp Duties Act* and *Land Tax Act*. This is in keeping with a timetable for an orderly and efficient introduction of the legislative and administrative changes, and will allow for a comprehensive education program by the State Taxation Office.

This Bill marks a milestone in the reform of taxation administration in South Australia, and provides considerable benefits to Government, the business community and the taxpayers of South Australia.

PART 1
PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure is to be brought into operation by proclamation. Under the *Acts Interpretation Act 1915*, different provisions may be brought into operation on different days.

Clause 3: Interpretation

This clause sets out definitions of terms used in the measure. The following are the more significant definitions:

'Tax': means a tax or duty under a taxation law, including—

(a) interest and penalty tax under Part 5; and

(b) any other amount paid or payable by a taxpayer to the Commissioner under a taxation law.

'Assessment' an assessment by the Commissioner under Part 3 of the tax liability of a person under a taxation law, including—

(a) a reassessment and a compromise assessment under Part 3; and

(b) an assessment by the Minister or the Supreme Court on an objection or appeal under Part 10.

'Return' a return, statement, application, report or other record that—

(a) is required or authorised under a taxation law to be lodged by a person with the Commissioner or a specified person; and

(b) is liable to tax or records matters in respect of which there is or may be a tax liability.

'Tax default' failure by a taxpayer to pay, in accordance with a taxation law, the whole or part of tax that the taxpayer is liable to pay.

'Deliberate tax default' a tax default that wholly or partly consists of or results from a deliberate act or omission by the taxpayer or a person acting on behalf of the taxpayer, including a tax default where the taxpayer, or a person acting on behalf of the taxpayer, deliberately failed to provide information to the Commissioner, or deliberately misinformed or misled the Commissioner, in relation to the tax liability in contravention of a taxation law.

Clause 4: Meaning of 'taxation laws'

The following are taxation laws for the purposes of the measure:

(a) the measure itself and regulations made under it;

(b) the *Debits Tax Act 1994* and the regulations under that Act;

(c) the *Financial Institutions Duty Act 1983* and the regulations under that Act;

(d) the *Land Tax Act 1936* and the regulations under that Act;

(e) the *Pay-roll Tax Act 1971* and the regulations under that Act;

(f) the *Stamp Duties Act 1923* and the regulations under that Act.

Clause 5: Meaning of 'non-reviewable' in relation to certain decisions

A non-reviewable decision cannot be the subject of objection or appeal under Part 10 and no court or administrative review body is to have jurisdiction or power to entertain any question as to the validity or correctness of the decision.

Clause 6: Crown bound

The measure is to bind the Crown in right of this jurisdiction, and so far as the legislative power of the legislature of this jurisdiction permits, the Crown in all its other capacities.

However, this is not to affect the liability of the Crown to tax under another taxation law.

As a result, various provisions of the measure facilitating the enforcement or collection of tax will apply to Crown bodies (such as the Public Trustee) while the question of whether tax is directly payable by the Crown will be left unaffected and to be determined under the provisions of the Acts imposing the various taxes.

PART 2
PURPOSE OF ACT AND RELATIONSHIP WITH OTHER TAXATION LAWS

Clause 7: Purpose of Act and relationship with other taxation laws

This clause spells out that the purpose of the measure is to make general provisions with respect to the administration and enforcement of the other taxation laws. The clause describes the matters left to be dealt with in the other taxation laws and the matters now to be contained in this measure.

PART 3
ASSESSMENT OF TAX LIABILITY

Clause 8: General power to make assessment

The clause empowers the Commissioner to make assessments of tax liabilities and spells out that an assessment may consist of or include a determination that there is not a particular tax liability.

Clause 9: Taxpayer may request assessment

The clause confers on taxpayers the right to obtain assessments of tax liabilities. This will not extend to assessments of prospective liabilities. Nor will a taxpayer have a right to obtain an assessment of a tax liability that has previously been the subject of an assessment. If a taxpayer has paid an amount as tax, the right to request an assessment of the tax liability concerned must be exercised within 6 months after the payment. This period is consistent with the limitation period of 6 months set under section 36 of the *Limitation of Actions Act 1936* for the recovery of money paid by mistake under a tax law subsequently declared to be invalid.

Assessments (and reassessments) will be subject to taxpayers' rights of objection and appeal under Part 10 of the measure.

Clause 10: Reassessment

The Commissioner is empowered to make one or more reassessments of a tax liability of a taxpayer.

However, the clause makes it clear that reassessment is not to involve the introduction (except where required by legislative change) of legal interpretations not generally applied by the Commissioner at the time of the initial assessment. Reassessment will, as a result, generally be confined to correction of mathematical or factual errors affecting liability, while disputes as to the legal basis of liability will generally be resolved at the stage of initial assessment and through objection and appeal in relation to the initial assessment.

Under the clause, a reassessment may not be made more than 5 years after the initial assessment except with taxpayer's agreement or where there has been a deliberate tax default.

Clause 11: Instruments and returns to include all relevant information

Subclause (1) is an offence that corresponds to section 19 of the *Stamp Duties Act 1923* (which is to be repealed under the *Statutes Amendment (Taxation Administration) Bill 1996*).

The clause provides that a taxpayer or tax agent must include in an instrument that is liable to tax, or in a statement that is produced to the Commissioner together with the instrument prior to payment of tax, all information necessary for a proper assessment of the tax liability of the taxpayer in respect of the instrument.

Similarly, a taxpayer or tax agent must include in a return required to be lodged with the Commissioner under a taxation law, in addition to the required information, any further information necessary for a proper assessment of the tax liability of the taxpayer in respect of the return or the matters to which the return relates.

Breach of either of these requirements will attract a maximum penalty of $10 000.

However, it will be a defence if it is proved—

- by a taxpayer that the taxpayer reasonably relied on another person liable or required with the taxpayer to pay the tax or lodge the return, or on a tax agent, to ensure that the requirements of this section are satisfied; or

- by a tax agent, that the tax agent reasonably relied on information supplied by the taxpayer or by another person liable or required with the taxpayer to pay the tax or lodge the return.

Clause 12: Information on which assessment is made

This clause makes it clear that the Commissioner may make an assessment on the information that the Commissioner has from any source at the time the assessment is made.

Further, it allows an assessment to be made by way of estimate if insufficient information is available to make an exact assessment.

Clause 13: Compromise assessment

This clause allows compromise assessments to be made by agreement with taxpayers in cases where the Commissioner considers it appropriate to do so to settle a dispute or to avoid undue delay or expense or for some other reason.

If a compromise assessment is made in respect of a tax liability, the Commissioner cannot make a reassessment of the taxpayer's liability except with the taxpayer's agreement or where the compromise assessment was procured by fraud or there was a deliberate failure to disclose material information.

Clause 14: Form of assessment and service on taxpayer

This clause requires an assessment to be a formal document and to be served on the taxpayer. Failure to serve will not, however, affect the validity of an assessment nor the recovery of an amount to which it relates.

Clause 15: Inclusion of interest and penalty tax in assessments

This clause requires that if there has been a tax default, an assessment of the taxpayer's liability must specify interest accrued and penalty tax payable under Part 5 in respect of the default.

Clause 16: Refund resulting from assessment

If an assessment shows that a taxpayer has overpaid tax, the Commissioner is to make a refund subject to the provisions of Part 4 with respect to the offsetting of refunds and the prevention of windfalls.

Clause 17: Cancellation of assessment

An assessment issued in error may be cancelled if no amount has been paid under the assessment. (If such a payment has been made, the Commissioner will deal with the matter by way of reassessment).

PART 4

REFUNDS OF TAX

Clause 18: General right to apply for refund

A taxpayer has a right to obtain a refund of tax overpaid. However, the right must be exercised within 5 years and does not exist at all if there has already been as assessment of the tax liability in question. A prior assessment, of course, would have grounded a right of objection and appeal. As with reassessments, the refund process under this clause is not to take into account changes in legal interpretation except where required by legislative change made after the making of the payment sought to be refunded. The process will generally deal with overpayments where there has been a mathematical error or a factual error affecting liability. Questions as to the legal basis for the taxpayer's liability will, as a result, generally be capable of being raised only by a request for an initial assessment or by objection or appeal against an initial assessment.

Clause 19: Application of remaining provisions of Part

This clause provides that the remaining provisions of Part 4 apply to refunds or refund applications whether under the Taxation Administration measure or another taxation law.

Clause 20: Form of application for refund

An application for a refund must be made to the Commissioner in a form approved by the Commissioner.

Clause 21: Commissioner may refuse to determine application until information, etc., provided

This clause allows the Commissioner to refuse to determine a refund application until the applicant complies with any requirement made under Division 2 of Part 9 for the purposes of determining the application.

Such refusal is to be a non-reviewable decision.

Clause 22: Offset of refund against other liability

The Commissioner may apply the whole or part of an amount that would otherwise be required to be refunded to meet any amount payable by the taxpayer under a taxation law (whether or not being the law in respect of which the refund became payable).

In addition, the whole or part of an amount that would otherwise be required to be refunded may be credited towards a taxpayer's future liability under a taxation law, but only with the taxpayer's consent.

Any decision of the Commissioner under this clause is to be a non-reviewable decision.

Clause 23: Windfalls—refusal of refund

The Commissioner may refuse to make a refund if—

- the relevant taxation law did not prevent the passing on of the tax to another person; and
- the tax to be refunded has been passed on to another person; and
- the taxpayer has not reimbursed that other person in an amount equivalent to the amount of tax passed on to that other person.

A decision under this clause is to be a non-reviewable decision.

Clause 24: Refunds paid out of Consolidated Account

This clause provides for payment of refunds and for the automatic appropriation of the necessary money.

PART 5

INTEREST AND PENALTY TAX

DIVISION 1—INTEREST

Clause 25: Interest in respect of tax defaults

This clause provides for the payment of interest, in the case of a tax default, on the amount of tax unpaid. The interest is to be calculated on a daily basis from the end of the last day for payment until the day it is paid at the interest rate from time to time applying under *clause 26*.

The clause makes it clear that interest is payable in respect of a tax default that consists of a failure to pay penalty tax (see Division 2) but is not payable in respect of any failure to pay interest.

Clause 26: Interest rate

The interest rate that applies is the sum of the market rate and 8 per cent per annum.

The market rate is the rate fixed under section 214A(8) of the *Income Tax Assessment Act 1936* of the Commonwealth or the rate fixed by the Minister by order published in the *Gazette*.

Clause 27: Minimum amount of interest

Interest payable of less than $20 is not payable in respect of a tax default.

Clause 28: Interest rate to prevail over interest otherwise payable on judgment debt

If judgment is given by or entered in a court for an amount that represents or includes unpaid tax, the interest rate applying under this Division continues to apply in relation to the tax unpaid, while it remains unpaid, to the exclusion of any other interest rate.

Clause 29: Remission of interest

The Commissioner is given a discretion to remit interest payable by a taxpayer by any amount.

Any such decision is to be a non-reviewable decision.

DIVISION 2—PENALTY TAX

Clause 30: Penalty tax in respect of certain tax defaults

The taxpayer responsible for a tax default will be liable to pay penalty tax in addition to interest on the amount of the tax unpaid.

However, penalty tax will not be payable in any case when the Commissioner is satisfied that the tax default was not a deliberate tax default and did not result, wholly or partly, from any failure by the taxpayer, or a person acting on the taxpayer's behalf, to take reasonable care to comply with the requirements of a taxation law.

The clause makes it clear that penalty tax is not payable in respect of a tax default that consists of a failure to pay interest or a failure to pay penalty tax previously imposed.

Clause 31: Amount of penalty tax

Penalty tax payable is, in the case of a deliberate tax default, 75 per cent of the amount of tax unpaid or, in any other case, 25 per cent of the amount of tax unpaid.

The penalty tax payable in respect of a tax default is to be subject to adjustment according to the conduct of the taxpayer:

- If the taxpayer made a sufficient disclosure of the tax default while not subject to a tax audit, the penalty tax is to be reduced by 80 per cent.
- If the taxpayer made a sufficient disclosure of the tax default while subject to a tax audit, the penalty tax is to be reduced by 20 per cent.
- If the taxpayer engaged in obstructive conduct while subject to a tax audit—the penalty tax may be increased by the Commissioner by 20 per cent.

Subclause (3) of the clause sets out details governing audit periods and what will constitute sufficient disclosure and obstructive conduct.

Clause 32: Minimum amount of penalty tax

Penalty tax is not payable in respect of a tax default if it amounts to less than $20.

Clause 33: Time for payment of penalty tax

Penalty tax is to be paid by a taxpayer within the period specified for that purpose in an assessment of the tax liability of the taxpayer.

Clause 34: Remission of penalty tax

The Commissioner is given a discretion to remit penalty tax payable by a taxpayer by any amount.

Such a decision is also to be a non-reviewable decision.

PART 6
APPROVAL OF SPECIAL TAX RETURN ARRANGEMENTS

Clause 35: Approval of special tax return arrangements

This clause will allow the Commissioner to give approval for special arrangements for the lodging of returns and payment of tax under a taxation law. Such an approval may be given to a specified taxpayer or a specified agent on behalf of a specified taxpayer or taxpayers of a specified class.

An approval may provide for exemptions from specified provisions of the taxation law to which it applies and may, amongst other things, authorise the lodging of returns and payments of tax by electronic means.

An approval may be given on the initiative of the Commissioner or on application.

Clause 36: Application for approval

An application for an approval must be made to the Commissioner in a form approved by the Commissioner.

The Commissioner will have a discretion to grant or refuse an application for an approval, and any such decision is to be non-reviewable.

Clause 37: Conditions of approval

This clause provides for the conditions of an approval under this Part.

The conditions of an approval may include—

- conditions limiting the approval to matters of a specified class
- conditions requiring the lodging of returns at specified times and conditions as to the contents of the returns
- conditions requiring payments of tax at specified times
- conditions as to the means by which returns are to be lodged or payments of tax are to be made
- if the approval provides an exemption from a requirement for the stamping of instruments, conditions as to the endorsement of the instruments
- conditions requiring the taxpayer or agent to whom the approval was given to keep specified records.

A decision as to the terms and conditions of an approval is to be a non-reviewable decision.

Clause 38: Variation and cancellation of approvals

The Commissioner is to have a discretionary power to vary or cancel an approval by written notice served on the taxpayer or agent to whom the approval was given. A decision under this clause is to be non-reviewable.

Clause 39: Effect of approval

The conditions of an approval are binding on the taxpayer or agent to whom the approval applies and the contravention of a condition is to be an offence punishable by a maximum penalty of $10 000. However, compliance with the provisions of a taxation law from which a taxpayer is exempted by an approval is to be an alternative to compliance with the conditions of an approval.

Clause 40: Stamping of instruments

If an approval provides for an exemption from a requirement for the stamping of an instrument, endorsement of the instrument in accordance with the conditions of the approval will constitute sufficient stamping of the instrument. This will not, however, affect liability for the payment of tax in relation to the instrument under the relevant taxation law.

The clause goes on to create an offence where a person endorses an instrument otherwise than under and in accordance with an approval under Part 6 so as to suggest or imply that the instrument is properly so endorsed and as a result duly stamped.

PART 7
COLLECTION OF TAX

Clause 41: Recovery of tax as debt

This clause deals with recovery of unpaid tax. The Commissioner is empowered to recover amounts assessed as being payable as tax as debts.

In addition, the Commissioner may recover interest accrued since the date of the assessment on the amount unpaid.

Clause 42: Joint and several liability

If two or more persons are jointly or severally liable to pay an amount under a taxation law, the Commissioner may recover the whole of the amount from them, or any of them, or any one of them.

This provision does not affect any provision of another taxation law under which a person who is jointly or severally liable to pay an amount and who pays the amount to the Commissioner may recover a contribution from any other person who was also liable to pay the whole or part of that amount.

Clause 43: Collection of tax from third parties

This clause allows the Commissioner to recover tax from third parties who owe money to, or hold money for, a taxpayer.

Clause 44: Duties of agents, trustees, etc.

This clause applies to a person who has possession, control or management of a business or property of a taxpayer (as an agent or trustee or in any other capacity) where obligations of the taxpayer under a taxation law have not been discharged or will arise in relation to the business or property in the future. The clause requires such a person to ensure that the obligations are discharged through the management of the taxpayer's business or property and imposes a personal liability on the person if the person fails to manage the business or property as required.

Clause 45: Arrangements for payment of tax

The Commissioner is to have a discretion to extend the time for payment of tax by a taxpayer and to accept the payment of tax by instalments. When the Commissioner extends the time for payment of tax by a taxpayer, the Commissioner may also extend the time for lodging a return relating to the matters in respect of which the tax is payable.

Clause 46: Decisions non-reviewable

Decision under Part 7 are to be non-reviewable decisions.

Clause 47: No statute of limitation to apply

This clause makes it clear that no statute of limitation will bar or affect any action or remedy for recovery by the Commissioner of an amount assessed as being payable as tax.

PART 8
RECORD KEEPING AND GENERAL OFFENCES

Clause 48: Requirement to keep proper records

This clause imposes a general obligation on persons to keep all records necessary for an accurate assessment of the persons' tax liability. Non-compliance is to constitute an offence punishable by a maximum penalty of $10 000. The regulations may limit the application of the requirement to taxes and persons of a specified class.

Clause 49: Commissioner may require specified records to be kept

The Commissioner may, for the purposes of a taxation law, by written notice served on a person required to keep records, require the person to keep additional records specified in the notice.

A person who fails to comply with such a notice is to be guilty of an offence punishable by a maximum penalty of $10 000.

Clause 50: False or misleading information in records

This clause makes it an offence if a person keeps a record under a taxation law that the person knows is false or misleading in a material particular or includes in such a record information that the person knows is false or misleading in a material particular. The clause fixes a maximum penalty of $10 000 for the offence.

Clause 51: Accessibility of records

Persons are required to keep records under a taxation law so that they can be produced readily to the Commissioner if the Commissioner requires their production. A maximum penalty of $10 000 is fixed for non-compliance with this requirement.

Clause 52: Form of record—English language

Records under a taxation law must be kept in English or in a form that can be readily converted or translated into English. A maximum penalty of $10 000 is fixed for non-compliance with this requirement.

Clause 53: Period of retention

A person required to keep a record under a taxation law must keep the record for not less than five years. Ten thousand dollars is fixed as the maximum penalty for non-compliance. The Commissioner is given a discretion to approve destruction of a record within the 5-year period.

Clause 54: Damaging or destroying records

It is to be an offence if a person deliberately damages or destroys a record required to be kept under a taxation law. A maximum penalty of $10 000 is fixed for this offence.

Clause 55: Giving false or misleading information

This clause makes it an offence to make a statement or give information, orally or in writing, to a tax officer knowing that the statement or information is false or misleading in a material particular. A maximum penalty of $10 000 is fixed for the offence.

Clause 56: Omissions from records, statements or information

This clause is an interpretation provision designed to make it clear that a record, statement or information may be false or misleading because of its contents or because of matter omitted from it.

Clause 57: Failure to lodge returns or records

This clause creates an offence of failing or refusing to lodge a return or record as required under a taxation law. The offence is to be punishable by a maximum penalty of $10 000.

Clause 58: Falsifying or concealing identity

A person must not, with the intention of impeding the administration or enforcement of a taxation law—

- falsify or conceal the identity, or the address or location of a place of residence or business, of the person or another person; or
- do anything or make any omission that facilitates the falsification or concealment of the identity, or the address or location of a place of residence or business, of the person or another person.

A maximum penalty of $10 000 is fixed for contravention of this provision.

Clause 59: Deliberate tax evasion

This clause makes it an offence if a person, by a deliberate act or omission, evades or attempts to evade tax.

A maximum penalty of $10 000 or imprisonment for two years is fixed for this offence.

PART 9
TAX OFFICERS, INVESTIGATION AND SECRECY PROVISIONS
DIVISION 1—TAX OFFICERS

Clause 60: Commissioner of State Taxation

This clause provides that there is to be a *Commissioner of State Taxation* who is to be a Public Service employee.

Clause 61: Commissioner has general administration of taxation laws

The Commissioner is to have the general administration of this Act and the other taxation laws.

Clause 62: Legal proceedings in name of Commissioner

This clause allows legal proceedings to be taken by or against the Commissioner in the name 'Commissioner of State Taxation'.

Clause 63: Commissioner may perform functions under Commonwealth Act

The Commissioner is authorised to perform the functions of a State taxation officer under Part IIIA of the *Taxation Administration Act 1953* of the Commonwealth.

Clause 64: Deputy Commissioners

There are to be one or more *Deputy Commissioners of State Taxation* who are also to be Public Service employees. The clause provides that a Deputy Commissioner of State Taxation is to have the same powers and functions as the Commissioner under a taxation law.

Clause 65: Other staff

There is to be such other staff (comprised of Public Service employees) as is necessary for the administration and enforcement of the taxation laws.

Clause 66: Delegation by Commissioner

This clause allows delegation by the Commissioner of any of the Commissioner's powers or functions under a taxation law.

Clause 67 : Authorised officers

The Commissioner is to be an authorised officer for the purposes of the taxation laws. The clause also empowers the Commissioner to appoint Public Service employees to be authorised officers for the purposes of the taxation laws.

Clause 68: Identity cards for authorised officers

An authorised officer is to be issued with an identity card.

Clause 69: Personal liability

This clause protects a tax officer from personal liability for an honest act or omission in the exercise or performance, or purported exercise or performance, of a power or function under a taxation law. Any such liability is instead to lie against the Crown.

DIVISION 2—INVESTIGATION

Clause 70: Power to require information, instruments or records or attendance for examination

Under this clause, the Commissioner may, for a purpose related to the administration or enforcement of a taxation law, by written notice served on a person, require the person—

- to provide to the Commissioner (either orally or in writing) information that is described in the notice; or
- to attend and give evidence before the Commissioner or an authorised officer; or
- to produce to the Commissioner an instrument or record in the person's custody or control that is described in the notice.

The clause makes it an offence if a person, without reasonable excuse, refuses or fails to comply with requirements of the Commissioner under the clause.

Clause 71: Powers of entry and inspection

This clause confers on authorised officers powers of entry and inspection for the administration or enforcement of taxation laws.

Clause 72: Search warrant

This clause provides for the obtaining of a warrant for forcible entry and search.

Clause 73: Use and inspection of instruments or records produced or seized

Under this clause, an instrument or record that has been produced to the Commissioner or seized and removed by an authorised officer, may be retained for the purpose of enabling the instrument or record to be inspected and enabling copies of, or extracts or notes from, the instrument or record to be made or taken by or on behalf of the Commissioner. However, if the instrument or record is liable to tax or is required by the Commissioner as evidence for the purposes of legal proceedings, the instrument or record may be retained until the tax is paid or the proceedings are finally determined. Persons otherwise entitled to inspect such an instrument or record continue to be so entitled while it is in the possession of the Commissioner. Liens on such an instrument or record are not affected. A decision under subclause (2) or (3) is to be a non-reviewable decision.

Clause 74: Self-incrimination

A person is not excused from answering a question, providing information or producing an instrument or record, when required to do so under this Act, on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.

However, if the person objects to complying with such a requirement on that ground, the answer, information, instrument or record is not admissible against the person in any criminal proceedings other than proceedings for an offence with respect to false or misleading statements, information or records or proceedings for an offence in the nature of perjury.

Clause 75: Hindering or obstructing authorised officers, etc.

A person who—

- hinders or obstructs an authorised officer in the exercise of a power under Division 2 Part 9; or
- without reasonable excuse, refuses or fails to comply with a requirement of an authorised officer under that Division,

is to be guilty of an offence.

However, an authorised officer entering onto premises must have identified himself or herself as an authorised officer and warned the person that a refusal or failure to comply with the requirement constituted an offence.

Clause 76: Impersonating authorised officer

It is to be an offence if a person impersonates or falsely claims to be an authorised officer.

DIVISION 3—SECRECY

Clause 77: Prohibition of certain disclosures by tax officers

A tax officer or former tax officer is to be guilty of an offence if he or she discloses any information obtained under or in relation to the administration or enforcement of a taxation law, except as permitted by Part 9.

Clause 78: Permitted disclosure in particular circumstances or to particular persons

A tax officer may, however, disclose information obtained under or in relation to the administration or enforcement of a taxation law—

- with the consent of the person to whom the information relates or at the request of a person acting on behalf of the person to whom the information relates, if the information has been obtained from that person; or
- in connection with the administration or enforcement of a taxation law (including for the purpose of legal proceedings arising out of a taxation law or reports of such proceedings); or
- in connection with the administration or enforcement of a law of another Australian jurisdiction relating to taxation; or
- in accordance with a requirement imposed under an Act; or
- to the holder of a prescribed office under a law of this jurisdiction or another Australian jurisdiction.

Clause 79: Permitted disclosures of general nature

The Commissioner may disclose information obtained under or in relation to the administration or enforcement of a taxation law that does not directly or indirectly identify a particular taxpayer.

Clause 80: Prohibition on secondary disclosures of information

It is to be an offence if a person discloses any information obtained from a tax officer in accordance with Part 9 unless the disclosure is made with the consent of the Commissioner or in the performance of a function conferred or imposed on the person by law for the purpose of the administration or enforcement of a law or protecting the public revenue.

Clause 81: Restriction on disclosure in legal proceedings

A person who is or has been a tax officer is not required to disclose or produce in a court or for the purposes of legal proceedings any information obtained under or in relation to the administration or enforcement of a taxation law unless—

- it is necessary to do so for the purposes of the administration or enforcement of a taxation law or the *Taxation (Reciprocal Powers) Act 1989*; or
- the requirement is made for the purposes of enabling the holder of a prescribed office under a law of this jurisdiction or another Australian jurisdiction to perform a function conferred or imposed on the person by law.

PART 10
OBJECTIONS AND APPEALS
DIVISION 1—OBJECTIONS

Clause 82: Objections

This clause creates a right of objection against—

- an assessment (other than a compromise assessment); or
- a decision under Part 4 concerning a refund or an application for a refund of tax; or
- any other decision of the Commissioner under a taxation law that is not declared to be a non-reviewable decision.

Clause 83: Grounds of objection

The grounds of an objection must be stated fully and in detail in the notice of objection.

Clause 84: Objection to reassessment

In the case of an objection to a reassessment, the objection may only relate to tax liabilities specified in the reassessment to the extent that they are additional to or greater than those under the previous assessment.

Clause 85: Onus on objection

This clause makes it clear that the objector is to have the onus of proving the objector's case.

Clause 86: Time for lodging objection

A person is allowed 60 days for lodging an objection. The period runs from the date of service of the assessment or the date of notification of the decision to which the objection relates.

Clause 87: Objections lodged out of time

The Minister is to have a discretion to permit a person to lodge an objection after the end of the 60-day period.

Clause 88: Determination of objection

This clause sets out the procedure for determination of an objection. The Minister may, after consideration of the objection, confirm or revoke the assessment or decision to which the objection relates or make an assessment or decision in place of the assessment or decision to which the objection relates.

Clause 89: Notice of determination

The objector must be given written notice of the determination of the objection.

Clause 90: Interest to be included in refund resulting from objection

This clause provides for a refund of tax found on an objection to have been overpaid. The amount of a refund must include interest on the amount overpaid calculated on a daily basis from the relevant date until the date it is refunded or otherwise applied under Part 4 at the market rate from time to time applying under Part 5.

The 'relevant date' is the date of payment of the amount overpaid or the date on which the Commissioner made the assessment or decision to which the objection relates, whichever is the later.

Clause 91: Recovery of tax pending objection

The fact that an objection is pending is not in the meantime to affect the assessment or decision to which the objection relates and tax is to be recoverable as if no objection were pending.

DIVISION 2—APPEALS

Clause 92: Right of appeal

A person who has made an objection may appeal to the Supreme Court if the person is dissatisfied with the Minister's determination of the objection or 90 days (not including any period of suspension under clause 88) have passed since the objection was lodged with the Minister and the Minister has not determined the objection and served notice of the determination on the person.

Clause 93: Appeal prohibited unless tax is paid

This clause provides that an appellant must first pay the whole of the amount of any tax to which the appeal relates as assessed by the Commissioner or by the Minister on the objection. However, the Minister is to have a discretion to permit the right of appeal to be exercised even though the tax has not been paid.

Clause 94: Time for appeal

The time for making an appeal is fixed as 60 days after the date of service on the person of notice of the Minister's determination of the person's objection. However, if 90 days (not including any period of suspension under section 88) have passed since the person's objection was lodged with the Minister and the Minister has not determined the objection and served notice of the determination on the person, the person may appeal at any time. The Commissioner must first, however, be given not less than 14 days written notice of the person's intention to make the appeal.

Clause 95: Appeals made out of time

The Supreme Court is to have a discretion to allow a person to appeal after the end of the 60-day period.

Clause 96: Grounds of appeal

The appellant's and respondent's cases on an appeal are not to be limited to the grounds of the objection or the reasons for the determination of the objection or the facts on which the determination was made. However, if the objection was to a reassessment, any limitation of the matters to which the objection could relate under Division 1 applies also to the appeal.

Clause 97: Onus on appeal

This clause makes it clear that an appellant has the onus of proving the appellant's case.

Clause 98: Determination of appeal

On an appeal, the Supreme Court may—

- confirm or revoke the assessment or decision to which the appeal relates;
- make an assessment or decision in place of the assessment or decision to which the appeal relates;
- make an order for payment to the Commissioner of any amount of tax that is assessed as being payable but has not been paid;
- make any further order as to costs or otherwise as it thinks just.

Clause 99: Interest to be included in refund resulting from appeal

This clause corresponds to clause 90 and provides for a refund and interest if tax is found on an appeal to have been overpaid.

DIVISION 3—EXCLUSION OF OTHER PROCEEDINGS OR DISPUTES AS TO TAX LIABILITY

Clause 100: Exclusion of other proceedings or disputes as to tax liability

The validity or correctness of an assessment or any other decision in respect of which rights of objection and appeal are conferred under Part 10 is not to be open to challenge in any proceedings other than proceedings by way of objection or appeal under that Part.

The clause also prevents proceedings for the recovery of an amount paid as tax unless the amount has been found to have been overpaid as a result of an assessment, or a decision on an application for a refund, made by the Commissioner, or by the Minister or the Supreme Court on an objection or appeal under Part 10. Similarly, no question is to be raised as to liability to pay tax except through an application to the Commissioner for an assessment or a refund, or in proceedings by way of objection or appeal under Part 10.

PART 11
MISCELLANEOUS

Clause 101: Means and time of payment

This clause allows payment of tax by a cash payment made at, or a bank cheque or postal money order delivered to, an office of the Commissioner or by any means of payment approved by the Commissioner. An approval may be general or limited to particular taxes, persons or payments and unconditional or subject to conditions.

The clause provides that payment by a personal cheque will be taken to be effected when the cheque is received by the Commissioner provided that payment occurs when the Commissioner first presents the cheque for payment. Otherwise payment by personal cheque will be taken to be effected when payment occurs under the cheque following presentation by the Commissioner.

An approval of a means of payment (other than personal cheque) may include a stipulation as to when payment by that means will be taken to be effected, and any such stipulation is to have effect according to its terms.

Clause 102: Adjustments for fractions of dollar

If an amount calculated and payable in accordance with a tax law is not a multiple of a dollar, the Commissioner may decrease the amount but not lower than the nearest dollar.

Clause 103: Valuation of foreign currency

If an amount involved in the calculation of tax is not in Australian currency, the amount is to be converted to Australian currency at the rate of exchange reported by the Reserve Bank and current at the date on which the liability to pay the tax arose. This is a general rule that is subject to any provision of another taxation law governing the

calculation of tax where an amount involved in the calculation is not in Australian currency.

Clause 104: Writing off of tax

The Commissioner is authorised to write off the whole or a part of any unpaid tax if satisfied that action, or further action, to recover the tax is impracticable or unwarranted.

Clause 105: Public officer of corporation

This clause corresponds to a provision currently contained in the *Pay-roll Tax Act*. Under the clause, the Commissioner may, by written notice, require a corporation to appoint a natural person resident in South Australia as a public officer of the corporation for the purposes of the taxation laws. If the Commissioner has made such a requirement and the corporation does not make such an appointment or does not keep the office of public officer constantly filled as required, the Commissioner may appoint a person as the public officer of the corporation. Service of a document may be effected on the public officer of the corporation. The public officer is to be answerable for the discharge of all obligations imposed on the corporation under a taxation law. Any criminal or civil proceedings brought under a taxation law against the public officer are to be taken to have been brought against the corporation, and the corporation is to be liable jointly with the public officer for any penalty imposed on the public officer, or for compliance with any order made against the public officer.

Clause 106: Notice of liquidator's appointment

A liquidator appointed to wind up a corporation is required notify the Commissioner of the appointment within 14 days after the date of the appointment.

Clause 107: Service of documents on Commissioner

This clause sets out various alternative means for service of documents on the Commissioner.

Clause 108: Service of documents by Commissioner

This clause sets out various alternative means for service of documents by the Commissioner.

Clause 109: General criminal defence

It is to be a defence to a charge of an offence against a taxation law if the defendant proves that the offence was not committed deliberately and did not result from any failure by the defendant to take reasonable care to avoid the commission of the offence.

Clause 110: Offences by persons involved in management of corporations

If a corporation commits an offence against a taxation law, a person who is concerned in, or takes part in, the management of the corporation is also to be guilty of an offence and liable to the same penalty as may be imposed for the principal offence when committed by a natural person.

It is to be a defence to a charge of such an offence if the defendant proves that the principal offence did not result from any failure by the defendant to take reasonable care to prevent the commission of the principal offence.

The clause sets out a definition of persons concerned in taking part in the management of a corporation.

Clause 111: Penalties for corporations

The maximum penalty that a court may impose for an offence against a taxation law that is committed by a corporation is five times the maximum penalty that would otherwise apply.

Clause 112: Continuing offences

A person may be convicted of a second or subsequent offence for a failure to do an act (where the failure constitutes an offence against a taxation law) if the failure continues beyond the period or date in respect of which the person is convicted for the failure.

Clause 113: Time for commencement of prosecutions

A person may be convicted of a second or subsequent offence for a failure to do an act (where the failure constitutes an offence against a taxation law) if the failure continues beyond the period or date in respect of which the person is convicted for the failure.

Clause 114: Tax liability unaffected by payment of penalty

The payment by a person of a penalty imposed by a court does not relieve the person from the payment of any other amount the person is liable to pay under a taxation law.

Clause 115: Evidence

This clause provides appropriate evidentiary assistance for legal proceedings under taxation laws.

Clause 116: Regulations

This clause authorises the making of regulations.

SCHEDULE

The schedule sets out appropriate transitional provisions.

Mr QUIRKE secured the adjournment of the debate.

ELECTRICITY BILL

The Hon. S.J. BAKER (Minister for Mines and Energy) obtained leave and introduced a Bill for an Act to regulate the electricity supply industry; to make provision for safety and technical standards for electrical installations; to amend the Electricity Corporations Act 1994 and the Local Government Act 1934; and for other purposes. Read a first time.

The Hon. S.J. BAKER: I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill represents a further underpinning of the Government's program of bringing South Australia into the competitive National Electricity Market in Australia. The changes made in the 1990s have seen ETSA undergo major reforms and restructuring to ready it for the competitive market.

Indeed, the emphasis has been on preparing for the day when ETSA must perform purely as a Government Business Enterprise in competition with other utilities, both from across State borders and from new entrants to the South Australian electricity market.

The supply of electricity to most parts of the State has had a special priority in South Australia over the last fifty years. Much of South Australia's economic development has been triggered or facilitated by a reliable, affordable electricity supply. Electricity underpins many of this State's industries and much of its employment.

This Bill, combined with the *National Electricity (South Australia) Act 1996* which was passed earlier this year, paves the way for the continuing development of the electricity industry in South Australia within the new competitive environment.

As honourable members would be aware, the Bill is introduced against a national background of legislative and other reforms targeted at creating the National Electricity Market to provide greater customer choice and improved services.

South Australia supports these national changes and the Government welcomes the onset of national competition with the potential benefits that this offers.

Suppliers of electricity in South Australia will come under increasing pressure to meet competition from suppliers from other States, and buyers of electricity will face new opportunities as the competitive market is phased in.

The Bill has been prepared to provide a commercial and technical regulatory framework for a rapidly changing industry. Central to these objectives is the intention to make the *Electricity Act* consistent with the National Electricity Market arrangements and with the National Electricity Code (the Code) in particular.

South Australian legislation does not presently confer a statutory monopoly on ETSA for generating electricity in South Australia. As is the case elsewhere, electricity networks are seen as a natural monopoly, and a key feature of the Bill, as of the Code, is the foreshadowing of new entrants seeking access to those networks. It is for this reason that separate licence provisions are made for the several roles within the electricity supply industry, namely generation, transmission, distribution and retailing.

The new arrangements under the National Electricity Market are expected to encourage new entrants in several ways; for instance, the continued expansion of cogeneration activities as part of other business operations will mean that certain energy which is currently going to waste can be harnessed. We can expect to see additional cogeneration projects in the future, as well as new ventures in renewable energy generation, electricity retailing and new network investments, particularly in the form of interstate connections to make fuller use of interstate trade opportunities.

This will bring revenues to existing and new companies and assist in the supplementation of the State's energy needs.

This State does not have an embarrassing surplus of generation capacity like some eastern States, and the supplementation of existing capacity from such avenues is potentially of great value to the State's future.

A fundamental element of this Bill is the creation of a Technical Regulator. The Bill formalises the move from ETSA to the Department of Mines and Energy of responsibility for a number of safety and technical issues, as a part of the program of reform.

Under the reform initiatives agreed to by CoAG, the current structure in South Australia whereby ETSA provides electricity and undertakes regulation activities is no longer appropriate.

This Bill also makes corresponding changes to the *Electricity Corporations Act 1994* to formalise the transfer of responsibility which occurred on 1 July 1995 through previous amendment to the *Electricity Corporations Act 1994*.

In addition to this Bill and the *National Electricity (South Australia) Act 1996*, there are two other Acts which have a direct influence on South Australia's electricity industry.

The first is the *Electricity Corporations (Generation Corporation) Amendment Act 1996* which this Parliament passed in order to effect the separation from ETSA Corporation of the generation activities and assets into a new GBE, SA Generation Corporation.

This Act signalled strongly the Government's intention to honour the spirit and the letter of its CoAG commitments, and it represented a close regard to the advice of the Industry Commission which the Government sought as South Australia moved closer to entering the National Electricity Market.

The other Act, the *Government Business Enterprises (Competition) Act 1996*, makes provision for Commissioners with pricing investigation powers.

Under that legislation a Commissioner may inquire into monopoly GBE prices and provide advice to the Government on the prices proposed to be charged by monopoly GBEs in this State.

The price of electricity to be charged by ETSA to non-contestable or tariff-based customers is one of the identified monopoly GBE goods and services.

These other Acts are mentioned so that honourable members will be able to appreciate the inter-relationships between this Bill and other measures, and their ramifications for South Australia.

These legislative changes set the scene for a new era in the electricity supply industry in South Australia.

This *Electricity Bill* provides a framework to enable the licensing of participants in all aspects of electricity supply activities, including generation, transmission, distribution and sales, both those connected to the national grid and those in off grid situations such as remote area self-contained systems.

Very importantly, the Government expects ETSA Corporation to remain the operator of the State's transmission and distribution networks, and the main seller of electricity to domestic and small business customers in the State.

However, the provision for other licensees in these activities could enable, for example, a new retailer entity to be established in the South Australian market or a new privately-owned transmission link to be built between States, as well as facilitating new generation initiatives, such as co-generation and solar or wind power projects.

The legislative package previously outlined includes important measures for the protection of smaller customers who will continue to be supplied by the ETSA for the foreseeable future. This Bill provides for consumer protection to be structured into licence conditions by way of supply terms and conditions to apply to such customers, and for appropriate consultation with the Commissioner for Consumer Affairs on such matters.

This Bill also provides other protection measures for users of electricity in South Australia. As honourable members would be aware, electricity by its nature has a capacity to cause injury and death. Unsafe installations can be associated with property damage especially through fire. It is critical that safety standards are appropriate in the electricity industry and enforced.

This Bill, in addition to transferring several powers from ETSA to the Department of Mines and Energy, and thus continuing and strengthening the current provisions for safety, also introduces a certificate of compliance program relating to electrical installations.

These measures will provide for, as the name suggests, the certification by an electrical contractor of electrical installation work performed. These certificates indicate the work done and by whom, and detail the tests performed to ensure the electrical safety of the work. This facilitates the identification of responsibility for faulty work, as well as protecting electrical contractors from wrongful accusations where a fault is said to stem from their work but in fact does not.

The Bill will also ensure that electrical contractors and other persons who install or amend electrical wiring meet appropriate industry standards.

The Bill confers on authorised officers the necessary powers to carry out the tasks committed to them.

The Bill also contains measures emanating from Cabinet's consideration of the Environment, Resources and Development Committee's review of vegetation management around power lines in non-bushfire risk areas.

Local Government will become responsible for vegetation clearance in those areas, with the transfer of funds saved by ETSA to Local Government. At the same time, the regulation of street tree planting for these Council areas will be brought to an end, something which they have been pursuing for some time.

These measures will be phased in as existing contracts expire.

The reforms forming this Bill and the other measures outlined are far reaching. They are intended to foster and encourage major changes in the South Australian electricity supply industry. They are also designed to protect the interests of South Australian individuals and the general economy.

I commend the Bill to honourable members.

PART 1—PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Objects

This clause provides that the objects of the Act are as follows:

- to promote efficiency and competition in the electricity supply industry; and
- to promote the establishment and maintenance of a safe and efficient system of electricity generation, transmission, distribution and supply; and
- to establish and enforce proper standards of safety, reliability and quality in the electricity supply industry; and
- to establish and enforce proper safety and technical standards for electrical installations; and
- to protect the interests of consumers of electricity.

Clause 4: Interpretation

This clause contains definitions of words and phrases used in the Bill and, in particular, defines a non-contestable customer, an electrical installation, an electricity entity, electricity infrastructure, the National Electricity Code and network services.

Clause 5: Crown bound

This proposed Act will bind the Crown (including an electricity corporation as defined in the *Electricity Corporations Act 1994*).

Clause 6: Environment protection and other statutory requirements not affected

This proposed Act is in addition to and does not derogate from the provisions of the *Environment Protection Act 1993* or any other Act.

PART 2—ADMINISTRATION

Clause 7: Technical Regulator

There is to be a *Technical Regulator* to be appointed by the Governor.

Clause 8: Functions

The Technical Regulator has the following functions:

- the administration of the licensing system for electricity entities; and
- the monitoring and regulation of safety and technical standards in the electricity supply industry and with respect to electrical installations; and
- the monitoring of plans to increase or reduce electricity generation, transmission or distribution facilities or capacities and the likely effect on consumers of electricity; and
- any other functions assigned to the Technical Regulator under this proposed Act.

Clause 9: Delegation

The Technical Regulator may delegate powers to a person or body of persons that is (in the Technical Regulator's opinion) competent to exercise the relevant powers. Such a delegation does not prevent the Technical Regulator from acting in any matter.

Clause 10: Technical Regulator's power to require information

The Technical Regulator may require a person to give the Regulator information in the person's possession that the Regulator reasonably requires for administrative purposes. A person guilty of failing to provide information within the time stated in the notice may be liable to a maximum fine of $10 000.

Clause 11: Obligation to preserve confidentiality

The Technical Regulator is under an obligation to preserve the confidentiality of information that could affect the competitive position of an electricity entity or other person or that is commercially sensitive for some other reason.

Clause 12: Executive committees

Regulations may be made to establish an executive committee to exercise specified powers and functions of the Technical Regulator.

Clause 13: Advisory committees

The Minister or the Technical Regulator may establish an advisory committee to advise the Minister or the Technical Regulator (or both) on specified aspects of the administration of this proposed Act.

Clause 14: Annual report

The Technical Regulator must deliver to the Minister a report on the Technical Regulator's operations in respect of each financial year and the Minister must cause a copy of the report to be laid before both Houses of Parliament.

PART 3—ELECTRICITY SUPPLY INDUSTRY

DIVISION 1—LICENSING OF ELECTRICITY ENTITIES

Clause 15: Requirement for licence

A person who carries on operations in the electricity supply industry for which a licence is required without holding a licence authorising the relevant operations is guilty of an offence (penalty—$50 000).

The operations in the electricity supply industry for which a licence is required are—

- generation of electricity; or
- operation of a transmission or distribution network; or
- retailing of electricity; or
- other operations for which a licence is required by the regulations.

Clause 16: Application for licence

An application for the issue or renewal of a licence must be made to the Technical Regulator.

Clause 17: Consideration of application

The Technical Regulator has, subject to this proposed provision and the regulations, discretion to issue or renew licences on being satisfied as to the suitability of the applicant to hold a particular licence. Examples of the matters that the Technical Regulator may consider are the applicant's previous commercial and other dealings and the standard of honesty and integrity shown in those dealings and the financial, technical and human resources available to the applicant.

Clause 18: Authority conferred by licence

A licence authorises the person named in the licence to carry on operations in the electricity supply industry in accordance with the terms and conditions of the licence. The operations authorised by a licence need not be all of the same character but may consist of a combination of different operations for which a licence is required.

Clause 19: Term of licence

A licence is granted for a term (not exceeding 10 years) stated in the licence and is, subject to the conditions of the licence, renewable.

Clause 20: Licence fees and returns

A person is not entitled to the issue or renewal of a licence unless the person first pays to the Technical Regulator the annual licence fee or the first instalment of the annual licence fee. (The Technical Regulator may determine that an annual licence fee be payable in equal instalments.)

The holder of a licence issued for a term of 2 years or more must—

- in each year lodge with the Technical Regulator, before the date prescribed for that purpose, an annual return containing the information required by the Technical Regulator by condition of the licence or by written notice; and
- in each year pay to the Technical Regulator, before the date prescribed for that purpose, the annual licence fee, or the first instalment of the annual licence fee.

Clause 21: Licence conditions

A licence held by an electricity entity will be subject to—

- conditions determined by the Technical Regulator requiring compliance with specified standards or codes or other safety or technical requirements; and
- conditions determined by the Technical Regulator requiring the entity to produce and implement plans and procedures relating to safety and technical matters and to conduct compliance audits; and
- any other conditions determined by Technical Regulator.

Clause 22: Licences authorising operation of transmission or distribution network

The Technical Regulator may make such a licence subject to conditions (in addition to those imposed under proposed section 21) relating to the operation of a network; for example, a condition allowing other access to the network by other electricity entities on fair commercial terms.

Clause 23: Licences authorising retailing

A licence authorising an electricity entity to carry on retailing of electricity may confer on the entity an exclusive right to sell and supply electricity to non-contestable customers within a specified area and be subject to conditions (in addition to any imposed under proposed section 21) requiring—

- standard contractual terms and conditions to apply to the sale and supply of electricity to non-contestable customers or customers of a prescribed class; and
- the entity to comply with specified minimum standards of service in respect of non-contestable customers or customers of a prescribed class and requiring monitoring and reporting of levels of compliance with those standards; and
- a specified process to be followed to resolve disputes between the entity and customers as to the sale and supply of electricity.

The Technical Regulator must, on the grant of a exclusive retailing rights, and before determining, varying or revoking conditions under, consult with and have regard to the advice of the Commissioner for Consumer Affairs and any advisory committee established under proposed Part 2 for that purpose.

Clause 24: Licence conditions and Code participants

If an electricity entity is registered in accordance with the National Electricity Code as a Code participant, the Technical Regulator must, in determining the conditions of the entity's licence, have regard to the provisions of the Code and the need to avoid duplication of, and inconsistency with, regulatory requirements under the Code.

Clause 25: Offence to contravene licence conditions

There is a maximum penalty of $50 000 if an electricity entity contravenes a condition of its licence. If an electricity entity profits from contravention of a condition of its licence, the Technical Regulator may recover an amount equal to the profit from the entity on application to a court convicting the entity of an offence against this proposed section or by action in a court of competent jurisdiction.

Clause 26: Notice of licence decisions

The Technical Regulator must give an applicant for the issue or renewal of a licence written notice of any decision on the application or affecting the terms or conditions of the licence.

Clause 27: Variation of licence

The Technical Regulator may vary the terms or conditions of an electricity entity's licence by written notice to the entity.

Clause 28: Transfer of licence

A licence may be transferred with the Technical Regulator's agreement (with or without conditions imposed).

Clause 29: Surrender of licence

An electricity entity may surrender its licence.

Clause 30: Register of licences

The Technical Regulator must keep a register of the licences issued to electricity entities under this proposed Act.

DIVISION 2—SYSTEM CONTROLLER

Clause 31: System controller

The Governor may make regulations—

- appointing or providing for the appointment of a system controller to exercise system control over a specified power system;
- establishing a body corporate with a view to the appointment of the body as a system controller.

Clause 32: Functions of system controller

A system controller for a power system must—

- continuously monitor the operation of the power system; and
- control the input of electricity and the loads placed on the system to ensure that the integrity of the power system is maintained and the power system operates efficiently, reliably, and safely; and
- carry out the other functions assigned to the system controller by regulation.

Clause 33: Power of direction

A system controller for a power system has power to direct electricity entities that contribute electricity to, or take electricity from, the power system in addition to any other powers conferred on a system controller by the regulations.

Clause 34: Remuneration of system controller

A system controller will be entitled to impose and recover charges in respect of the performance of the system controller's functions.

Clause 35: Obligation to preserve confidentiality

A system controller is under an obligation to preserve the confidentiality of information that could affect the competitive position of an electricity entity or other person or that is commercially sensitive for some other reason.

DIVISION 3—STANDARD TERMS AND CONDITIONS FOR SUPPLY

Clause 36: Standard terms and conditions for supply

An electricity entity may, from time to time, fix standard terms and conditions governing the supply of electricity by the entity to non-

contestable customers or customers of a prescribed class. These standard terms and conditions are contractually binding.

DIVISION 4—SUSPENSION OR CANCELLATION OF LICENCES

Clause 37: Suspension or cancellation of licences

The Technical Regulator may, if satisfied that the holder of a licence—

- obtained the licence improperly; or
- has contravened a requirement imposed by or under this proposed Act or any other Act in connection with the operations authorised by the licence; or
- has ceased to carry on operations authorised by the licence,

suspend or cancel the licence.

DIVISION 5—TECHNICAL REGULATOR'S POWERS TO TAKE OVER OPERATIONS

Clause 38: Power to take over operations

If an electricity entity contravenes this proposed Act, or an electricity entity's licence ceases, or is to cease, to be in force without renewal and it is necessary to take over the entity's operations (or some of them) to ensure an adequate supply of electricity to customers, the Governor may make a proclamation authorising the Technical Regulator to take over the electricity entity's operations or a specified part of the electricity entity's operations.

Clause 39: Appointment of operator

When such a proclamation is made, the Technical Regulator must appoint a suitable person (the operator) (who may, but need not, be an electricity entity) to take over the relevant operations on agreed terms and conditions. It is an offence for a person to obstruct the operator in carrying out his or her responsibilities or not to comply with the operator's reasonable directions (maximum penalty—$50 000).

DIVISION 6—DISPUTES

Clause 40: Disputes

If a dispute arises between electricity entities or between an electricity entity and another person about the exercise of powers under this proposed Act, any party to the dispute may ask the Technical Regulator (who has a discretion whether to mediate or to decline to mediate) to mediate in the dispute. This proposed section is not intended to provide an exclusive method of dispute resolution.

PART 4—ELECTRICITY ENTITIES' POWERS AND DUTIES

DIVISION 1—ELECTRICITY OFFICERS

Clause 41: Appointment of electricity officers

An electricity entity may (subject to the conditions of the entity's licence) appoint a person to be an electricity officer to exercise powers under this proposed Act subject to the conditions of appointment and any directions given to the electricity officer by the entity.

Clause 42: Conditions of appointment

An electricity officer may be appointed for a stated term or for an indefinite term that continues while the officer holds a stated office or position on the conditions stated in the instrument of appointment.

Clause 43: Electricity officer's identity card

Each electricity officer must be issued with an identity card in a form approved by the Technical Regulator.

Clause 44: Production of identity card

An electricity officer must produce his or her card for inspection before exercising any of his or her powers.

DIVISION 2—POWERS AND DUTIES RELATING TO INFRASTRUCTURE

Clause 45: Entry on land to conduct surveys, etc.

An electricity entity may, by agreement with the occupier of land or on the Technical Regulator's authorisation, enter and remain on land to conduct surveys or assess the suitability of the land for the construction or installation of electricity infrastructure subject to such conditions as the Technical Regulator considers appropriate.

Clause 46: Acquisition of land

An electricity entity may acquire land in accordance with the *Land Acquisition Act 1969*. However, an electricity entity may only acquire land by compulsory process under the *Land Acquisition Act 1969* if the acquisition is authorised in writing by the Minister.

Clause 47: Power to carry out work on public land

Subject to this proposed section, an electricity entity may—

- install electricity infrastructure on public land; or
- operate, maintain, repair, alter, add to, remove or replace electricity infrastructure on public land; or
- carry out other work on public land for the generation, transmission, distribution or supply of electricity.

Clause 48: Power to enter for purposes related to infrastructure

An electricity officer for an electricity entity may, at any reasonable time, enter and remain on land where electricity infrastructure is situated to inspect, operate, maintain, repair, alter, add to, remove or replace the infrastructure or to carry out work for the protection of the infrastructure or the protection of public safety.

DIVISION 3—POWERS RELATING TO INSTALLATIONS

Clause 49: Entry to inspect, etc, electrical installations

An electricity officer for an electricity entity may, at any reasonable time, enter and remain in a place to which electricity is, or is to be, supplied by the entity—

- to inspect electrical installations in the place to ensure that it is safe to connect or reconnect electricity supply; or
- to take action to prevent or minimise an electrical hazard; or
- to investigate suspected theft of electricity.

If in the opinion of an electricity officer an electrical installation is unsafe, he or she may disconnect the electricity supply to the place in which the installation is situated until the installation is made safe to his or her satisfaction.

Clause 50: Entry to read meters, etc

An electricity officer for an electricity entity may, at any reasonable time, enter and remain in a place to which electricity is, or is to be, supplied by the entity—

- to read, or check the accuracy of, a meter for recording consumption of electricity; or
- to examine the electrical installations in the place to determine load classification and the appropriate price for the sale of electricity; or
- to install, repair or replace meters, control apparatus and other electrical installations in the place.

Clause 51: Entry to disconnect supply

An electricity officer who has proper authority to disconnect an electricity supply to a place may, at any reasonable time, enter and remain in the place to disconnect the electricity supply.

Clause 52: Disconnection of supply if entry refused

If an electricity officer seeks to enter a place under this proposed Division and entry is refused or obstructed, the electricity entity may, by written notice to the occupier of the place, ask for consent to entry stating the reason and the date and time of the proposed entry. If entry is again refused or obstructed, the electricity entity may disconnect the electricity supply to the place.

The electricity entity must restore the electricity supply if the occupier consents to the proposed entry and pays the appropriate reconnection fee and it is safe to restore the supply.

DIVISION 4—POWERS AND DUTIES IN EMERGENCIES

Clause 53: Electricity entity may cut off electricity supply to avert danger

An electricity entity may, without incurring any liability, cut off the supply of electricity to any region, area, land or place if it is, in the entity's opinion, necessary to do so to avert danger to person or property. If the cut off is to avert danger of a bush fire, the Country Fire Services Board should be consulted before doing so.

Clause 54: Emergency legislation not affected

Nothing in this proposed Act affects the exercise of any power, or the obligation of an electricity entity to comply with any direction, order or requirement, under the *Emergency Powers Act 1941*, *Essential Services Act 1981*, *State Disaster Act 1980* or the *State Emergency Service Act 1987*.

PART 5—CLEARANCE OF VEGETATION FROM POWERLINES

Clause 55: Duties in relation to vegetation clearance

An electricity entity has a duty to take reasonable steps—

- to keep vegetation of all kinds clear of public powerlines under the entity's control other than public powerlines referred to in proposed subsection (2); and
- to keep naturally occurring vegetation clear of private powerlines under the entity's control,

in accordance with the principles of vegetation clearance.

A council whose area is wholly or partly within an area prescribed by the regulations (a 'prescribed area') has a duty to take reasonable steps to keep vegetation of all kinds clear of public powerlines that are—

- designed to convey electricity at 11 kV or less; and
- within both the council's area and a prescribed area; and
- not on, above or under private land,

in accordance with the principles of vegetation clearance.

The occupier of private land has (subject to the principles of vegetation clearance) a duty to take reasonable steps to keep vegetation (other than naturally occurring vegetation) clear of any

private powerline on the land in accordance with the principles of vegetation clearance.

If vegetation is planted or nurtured near a public powerline contrary to the principles of vegetation clearance, the entity or council that has the duty under this section to keep vegetation clear of the powerline may remove the vegetation and recover the cost of so doing as a debt from the person by whom the vegetation was planted or nurtured.

If a council or occupier should have (but has not) kept vegetation clear of a powerline under an electricity entity's control in accordance with a duty imposed by this proposed section, the electricity entity may carry out the necessary vegetation clearance work (but the entity incurs no liability for failure to carry out such work).

Any costs incurred by an electricity entity in carrying out vegetation clearance work under proposed subsection (5) or repairs to a powerline required as a result of failure by a council or occupier to carry out duties imposed by this proposed section may be recovered as a debt from the council or occupier.

This proposed section operates to the exclusion of common law duties, and other statutory duties, affecting the clearance of vegetation from a public powerline or a private powerline, and so operates with respect to vegetation clearance work whether the work is carried out by the person having the duty under this section to keep vegetation clear of the powerline or by a contractor or other agent acting on behalf of the person or in pursuance of a delegation.

Clause 56: Role of councils in relation to vegetation clearance not within prescribed area

An electricity entity may make an arrangement with a council conferring on the council a specified role in relation to vegetation clearance around public powerlines that are not within a prescribed area.

Clause 57: Power to enter for vegetation clearance purposes

An electricity officer for an electricity entity or a council officer may, at any reasonable time, enter and remain on land to carry out vegetation clearance work that the entity or council is required or authorised to carry out under this proposed Part.

Clause 58: Regulations in respect of vegetation near powerlines

The Governor may, with the concurrence of the Minister for the Environment and Natural Resources, make regulations dealing with the clearance of vegetation from, or the planting or nurturing of vegetation near, public or private powerlines.

PART 6—SAFETY AND TECHNICAL ISSUES

Clause 59: Electrical installations to comply with technical requirements

It is an offence for a person who connects an electrical installation to a transmission or distribution network mot to ensure that the installation, and the connection, comply with technical and safety requirements imposed under the regulations. (Maximum penalty: $10 000.)

Clause 60: Responsibility of owner or operator of infrastructure or installation

It is an offence if a person who owns or operates electricity infrastructure or an electrical installation does not take steps to ensure that the infrastructure or installation complies with (and is operated in accordance with) the technical and safety requirements or that the infrastructure or installation is safe and safely operated. (Maximum penalty: $50 000.)

Clause 61: Examination and testing of certain electrical installation work

A person who carries out work on an electrical installation or proposed electrical installation classified under the regulations as work to which this proposed section applies must give notice of the work as required under the regulations and ensure that the work is examined and tested as required under the regulations. (Maximum penalty: $10 000.)

Clause 62: Certificates of compliance for certain electrical installation work

A person who carries out work on an electrical installation or proposed electrical installation classified under the regulations as work to which this proposed section applies must—

- satisfy himself or herself that the work has been carried out in accordance with technical and safety requirements imposed by the regulations; and
- follow procedures set out in the regulations for certifying compliance in respect of the work; and
- deal with the certificates in accordance with the regulations; and
- furnish returns to the Technical Regulator in accordance with the regulations.

(Maximum penalty: $5 000. Expiation fee: $315.)

Clause 63: Power to require rectification, etc, in relation to infrastructure or installations

The Technical Regulator may give a direction requiring rectification, the temporary disconnection of the electricity supply while rectification work is carried out or the disconnection and removal of electricity infrastructure or an electrical installation if it is unsafe or does not comply with this proposed Act. Failure to comply sith such a direction may result in necessary action being taken to rectify the situation and a fine of $10 000.

Clause 64: Reporting of accidents

If an accident happens that involves electric shock caused by the operation or condition of electricity infrastructure or an electrical installation, the accident must be reported immediately and the infrastructure or installation must not be altered or interfered with unnecessarily by any person so as to prevent a proper investigation of the accident. (Maximum penalty: $2 500. Expiation fee: $210.)

PART 7—ENFORCEMENT

DIVISION 1—APPOINTMENT OF AUTHORISED OFFICERS

Clause 65: Appointment of authorised officers

The Technical Regulator may appoint suitable persons as authorised officers subject to control and direction by the Technical Regulator.

Clause 66: Conditions of appointment

An authorised officer may be appointed for a stated term or for an indefinite term that continues while the officer holds a stated office or position on the conditions stated in the instrument of appointment.

Clause 67: Authorised officer's identity card

Each authorised officer must be given an identity card.

Clause 68: Production of identity card

An authorised officer must, before exercising a power in relation to another person, produce the officer's identity card for inspection by the other person.

DIVISION 2—AUTHORISED OFFICERS' POWERS

Clause 69: Power of entry

An authorised officer may, as reasonably required for the purposes of the enforcement of this proposed Act, enter and remain in any place, accompanied or alone.

Clause 70: General investigative powers of authorised officers

An authorised officer who enters a place under this proposed Part may exercise any one or more of the following powers:

- investigate whether operations are being carried on for which a licence is required;
- examine and test electrical infrastructure, electrical installations or equipment for safety and other compliance with this proposed Act;
- investigate a suspected electrical accident;
- investigate a suspected interference with electrical infrastructure or an electrical installation;
- investigate a suspected theft or diversion of electricity;
- take photographs or make films or other records of activities in the place;
- take possession of any object that may be evidence of an offence against this proposed Act.

Clause 71: Disconnection of electricity supply

If an authorised officer finds that electricity is being supplied or consumed contrary to this proposed Act, the authorised officer may disconnect the electricity supply. If an electricity supply has been so disconnected, a person must not reconnect the electricity supply, or have it reconnected, without the approval of an authorised officer.

Clause 72: Power to require disconnection of cathodic protection system

If an authorised officer finds that a cathodic protection system does not comply with, or is being operated contrary to, the regulations, the authorised officer may take reasonable action, or give a direction (in writing) to the person in charge of the system or the occupier of the place in which the system is situated to take reasonable action, to disconnect the system so as to make it inoperable. A person to whom such a direction is given must comply with the direction. (Maximum penalty: $10 000.)

Clause 73: Power to make infrastructure or installation safe

If an authorised officer finds that electricity infrastructure or an electrical installation is unsafe, the officer may—

- disconnect the electricity supply or give a direction requiring the disconnection of the electricity supply;
- give a direction requiring the carrying out of the work necessary to make the infrastructure or installation safe before the electricity supply is reconnected.

Failure to comply with such a direction or to reconnect the electricity supply without authority will attract a maximum penalty of $10 000.

Clause 74: Power to require information

An authorised officer may require a person to provide information or produce documents in the person's possession relevant to the enforcement of this proposed Act. Failure, without reasonable excuse, to comply with a requirement under this proposed section may lead to a fine of $10 000. However, a person is not required to give information or produce a document if the answer to the question or the contents of the document would tend to incriminate the person of an offence.

PART 8—REVIEW OF DECISIONS AND APPEALS

Clause 75: Review of decisions by Technical Regulator

An application may be made to the Technical Regulator—

- by an applicant for the issue, renewal or variation of a licence for review of a decision of the Technical Regulator to refuse to issue, renew or vary the licence; or
- by an electricity entity for review of a decision of the Technical Regulator to suspend or cancel the entity's licence or to vary the terms or conditions of the entity's licence; or
- by a person to whom a direction has been given under this proposed Act by the Technical Regulator or an authorised officer for review of the decision to give the direction; or
- by a person affected by the decision for review of a decision of an authorised officer or an electricity officer to disconnect an electricity supply or to disconnect a cathodic protection system.

The administrative details of implementing such an appeal are set out.

Clause 76: Stay of operation

The Technical Regulator may stay the operation of a decision that is subject to review or appeal under this proposed Part unless to do so would create a danger to person or property or to allow a danger to person or property to continue.

Clause 77: Powers of Technical Regulator on review

The Technical Regulator may confirm, amend or substitute a different decision on reviewing a disputed decision. Written notice of the decision and the reasons for the decision must be given to the applicant.

Clause 78: Appeal

A person who is dissatisfied with a decision of the Technical Regulator on a review may appeal against the decision to the Administrative and Disciplinary Division of the District Court for a fresh hearing of the matter.

Clause 79: Stay of operation

The Court may stay the operation of a decision that is subject to appeal unless to do so would create a danger to person or property or to allow a danger to person or property to continue.

Clause 80: Powers of Court on appeal

On an appeal, the Court may—

- confirm the decision under appeal; or
- amend the decision; or
- set aside the decision and substitute another decision; or
- set aside the decision and return the issue to the primary decision maker with directions the Court considers appropriate.

No appeal lies from the decision of the Court on an appeal.

PART 9—MISCELLANEOUS

Clause 81: Power of exemption

The Technical Regulator may grant an exemption from this proposed Act, or specified provisions of this proposed Act, on terms and conditions the Regulator considers appropriate.

Clause 82: Obligation to comply with conditions of exemption

A person in whose favour an exemption is given must comply with the conditions of the exemption. (Maximum penalty: $10 000.)

Clause 83: Application and issue of warrant

Application may be made to a magistrate for a warrant to enter a place specified in the application and the magistrate may issue one if satisfied that there are reasonable grounds for doing so.

Clause 84: Urgent situations

Applications may be made to a magistrate for a warrant by telephone, facsimile or other prescribed means if the urgency of the situation requires it.

Clause 85: Unlawful interference with electricity infrastructure or electrical installation

A person must not, without proper authority—

- attach an electrical installation or other thing, or make any connection, to a transmission or distribution network; or
- disconnect or interfere with a supply of electricity from a transmission or distribution network; or
- damage or interfere with electrical infrastructure or an electrical installation in any other way.

(Maximum penalty: $10 000 or imprisonment for 2 years.)

A person must not, without proper authority, be in an enclosure where electrical infrastructure is situated or climb on poles and other structures that are part of electrical infrastructure. (Maximum penalty: $2 500. Expiation fee: $210.)

A person must not discharge a firearm or throw or project an object towards electrical infrastructure or an electrical installation if there is significant risk of damage to the infrastructure or installation, or interruption of electricity supply. (Maximum penalty: $2 500. Expiation fee: $210.)

Clause 86: Unlawful abstraction or diversion of electricity

A person must not, without proper authority—

- abstract or divert electricity from a power system; or
- interfere with a meter or other device for measuring the consumption of electricity supplied by an electricity entity.

(Maximum penalty: $10 000 or imprisonment for 2 years.)

A person must not install or maintain a line capable of conveying an electricity supply beyond the boundaries of property occupied by the person unless the person is an electricity entity, the person does so with the approval of an electricity entity responsible for electricity supply to the property or the line is authorised under the regulations. (Maximum penalty: $10 000.)

Clause 87: Erection of buildings in proximity to powerline

A person must not, without the approval of the Technical Regulator, erect a building or structure in proximity to a powerline contrary to the regulations. (Maximum penalty: $10 000.) If a building or structure is erected in contravention of this proposed section, the electricity entity may do either or both of the following:

- obtain a court order requiring the person to take specified action to remove or modify the building or structure within a specified period;
- obtain an order for compensation from the person.

Clause 88: Notice of work that may affect electricity infrastructure

A person who proposes to do work near electricity infrastructure must give the appropriate electricity entity at least 7 days' notice of the proposed work if—

- there is a risk of equipment or a structure coming into dangerous proximity to electrical conductors; or
- the work may affect the support for any part of electricity infrastructure; or
- the work may interfere with the electricity infrastructure in some other way.

(Maximum penalty: $2 500. Expiation fee: $210.)

If the work is required in an emergency situation, notice must be given of the work as soon as practicable.

Clause 89: Impersonation of officials, etc

A person must not impersonate an authorised officer, an electricity officer or anyone else with powers under this proposed Act. (Maximum penalty: $5 000.)

Clause 90: Obstruction

A person must not, without reasonable excuse, obstruct an authorised officer, an electricity officer, or anyone else engaged in the administration of this proposed Act or the exercise of powers under this proposed Act. Neither may a person use abusive or intimidator language to, or engage in offensive or intimidator behaviour towards, an authorised officer, an electricity officer, or anyone else engaged in the administration of this proposed Act or the exercise of powers under this proposed Act. (Maximum penalty: $5 000.)

Clause 91: False or misleading information

A person must not make a statement that is false or misleading in a material particular in any information furnished under this proposed Act. The maximum penalty if the person made the statement knowing that it was false or misleading is $10 000. In any other case, the penalty is $5 000.

Clause 92: Statutory declarations

A person may be required to verify information given under the proposed Act by statutory declaration.

Clause 93: General defence

It is a defence to a charge of an offence against this Act if the defendant proves—

- that the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care;
- that the act or omission constituting the offence was reasonably necessary in the circumstances in order to avert, eliminate or minimise danger to person or property.

Clause 94: Offences by bodies corporate

If a body corporate is guilty of an offence against this proposed Act, each director of the body corporate is, subject to the general

defences, guilty of an offence and liable to the same penalty as may be imposed for the principal offence.

Clause 95: Continuing offence

Provision is made for ongoing penalties for offences that continue.

Clause 96: Immunity from personal liability for Technical Regulator, authorised officer, etc

No personal liability attaches to the Technical Regulator, a delegate of the Technical Regulator, an authorised officer or any officer or employee of the Crown engaged in the administration or enforcement of this proposed Act for an act or omission in good faith in the exercise or discharge, or purported exercise or discharge, of a power, function or duty under this proposed Act. Instead, any such liability lies against the Crown.

Clause 97: Evidence

This clause provides for evidentiary matters in any proceedings.

Clause 98: Service

The usual provision for service of notices or other documents is made in this clause.

Clause 99: Regulations

The Governor may make regulations for the purposes of this proposed Act.

SCHEDULE 1: CONSEQUENTIAL AMENDMENTS

This schedule consequentially amends the *Electricity Corporations Act 1994* and the *Local Government Act 1934*.

SCHEDULE 2: TRANSITIONAL PROVISION

Schedule 2 contains clauses of a transitional nature.

Mr QUIRKE secured the adjournment of the debate.

STATE RECORDS BILL

The Hon. W.A. MATTHEW (Minister for State Government Services) obtained leave and introduced a Bill for an Act to provide for the preservation and management of official records; to amend the Libraries Act 1982, the Freedom of Information Act 1991 and the Local Government Act 1934; and for other purposes. Read a first time.

The Hon. W.A. MATTHEW: 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 administration of public records in South Australia is presently covered by the Libraries Act and several administrative and policy directives which are issued by various authorities to Government agencies.

This legislation is necessary to secure consistent and co-ordinated records management and archiving across Government agencies by enabling the establishment of common systems and standards. Efficiencies achieved through economies of scale and a whole of government approach will allow substantial financial savings in such areas as storage, accommodation, training, access to information and software purchases.

The legislation gives the Office of State Records the responsibility of establishing a standard records management environment across Government which is based on best practice and the efficient use of resources.

Previous administrative arrangements and directives have not fostered a controlled or whole of Government approach to records management. This has led to a situation which allows:

- the fragmentation of records collections,
- multiple methodologies and approaches which are incompatible,
- a deficiency of records accountability,
- the absence of designated responsibility for the establishment of records management standards and practices.

The Libraries Board of South Australia currently administers certain archival responsibilities under the Libraries Act. The Government believes that it is appropriate that these functions, along with those proposed in the Bill, be given to an agency which carries the core function of records management. This is consistent with arrangements in most other States and the Commonwealth Government where there is specific legislation relating to the management and control of official records.

Current arrangements in South Australia are fragmented and deficient in several areas. The proposed legislation will embrace the principles of sound records management including archival requirements, access considerations, storage/disposal controls (and the use of latest technology) and issues of Government and public interest and efficiency.

The legislation is consistent with the whole of Government approach to records management and recent initiatives such as the phased introduction of standard records management software to State Government agencies.

The legislation has been developed over many years and has involved substantial debate and consultation with professional groups, users and organisations.

The Bill formally supports the application of best practice principles to the management and control of official records.

The proposed legislation underpins these standards by:

- recognising the office of State Records.
- ensuring that official records of enduring evidential and information value are preserved for future reference.
- promoting the observance of best practices by agencies in their management of official records.
- ensuring that appropriate access is available to official records in the custody of State Records.
- establishing the process by which determinations on the disposition of records can be made.

Although confirming traditional archival responsibilities it also promotes records management in its widest sense and includes provision for the management of electronic and other forms of records.

Proper management of official records is an essential role of Government. Records of enduring value must be preserved and accessible; those with short term significance must be properly managed and controlled and disposed of at the end of their useful life.

Professional, efficient, practical and consistent standards should apply to the management of official records including electronic records.

The legislation is aimed at the management of official records and therefore applies to:

- the Governor;
- a Minister of the Crown;
- a court or tribunal;
- a person who holds office established by an Act;
- an incorporated or unincorporated body—
  - (i) established for a public purpose by or under an Act;
  - (ii) established or subject to control or direction by the Governor, a Minister of the Crown or any instrumentality or agency of the Crown;
- a department or other administrative unit of the public service;
- the police force;
- a municipal or district council;
- a person or body declared by the regulations to be an agency.

The legislation will not apply to Parliament, Parliamentary committees, members of Parliament or parliamentary officers or staff.

Under the legislation, the Manager State Records and the Office of State Records are charged with the following responsibilities and functions:

- to receive official records into the custody of State Records in accordance with the legislation;
- to ensure the organisation, retention, conservation and repair of official records in the custody of State Records;
- to make determinations (with approval of the Council) as to the disposal of official records under the legislation;
- to publish indexes of, and other guides to, the official records in the custody of State Records;
- to provide for public and agency access to the official records in the custody of State Records in accordance with the legislation;
- to assist in identifying official records in the custody of State Records the disclosure of which might constitute a contravention of aboriginal tradition;
- to provide advice and assistance to agencies with respect to their record management practices;
- to issue standards relating to record management and assist in ensuring that agencies observe the best record management practices;
- to promote awareness of State Records and its functions;

State Records is a unit in the Department for State Government Services comprising a staff of approximately 25 people and currently located on two sites, one repository and reading room at Netley with the main office and repository at Gepps Cross. Staffing includes a number of archivists and records management professionals. The

position of Manager, State Records has recently been created and filled by a person with relevant professional qualifications.

The Bill provides for the formation of a State Records Council with the function of approving determinations of the Manager as to the disposal or retention of official records. The professional input of State Records staff plus the proposed approval mechanism via the State Records Council will ensure the preservation of the State's public heritage and the permanent retention of appropriate official records.

The Council membership covers a wide range of interest groups and expertise and should be able to make balanced and informed decisions and provide advice to the Minister as necessary.

Membership comprises an academic historian, qualified professionals nominated by the Australian Society of Archivists and the Records Management Association of Australia, a Chief Executive Officer (or delegate) of a Government agency, a local government representative, a business person and a legal practitioner.

Part 5 of the legislation emphasises the need for care and management of official records and outlines responsibilities of the Manager relating to the issuing of standards and the review of records management practices of agencies.

It also makes the unauthorised disposal of an official record an offence.

Part 6 of the Bill relates to the custody of official records and specifies the arrangements for the voluntary or mandatory transfer of records into the custody of State Records. Mandatory transfers will apply where access is no longer required for current administrative purposes or the record is 15 years old.

Exemptions to mandatory transfers may be provided by the Manager where agencies have sufficient and adequate storage facilities. Similarly, on the recommendation of the Manager, the Minister may approve the keeping of official records on premises other than an agency. For example, records could be stored in premises owned or managed by the Commonwealth or another State or private enterprise, provided that appropriate standards and conditions are met.

Part 6 also provides for the recovery of official records in private hands. Depending on the circumstances, the recovery can be pursued through the Magistrates Court and could result in compensation.

Part 7 deals with the disposal of official records which is only to occur in accordance with a determination of the Manager made with the approval of the Council.

Parts 8 and 9 of the Bill relate to access conditions and miscellaneous provisions including the acceptance of non-official records, evidentiary provisions and a provision for charging for services. The Manager is required under Part 9 to produce an annual report which the Minister must table in both Houses of Parliament.

Explanation of Clauses

PART 1

PRELIMINARY

The provisions of the Bill are as follows:

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure is to be brought into operation by proclamation.

Clause 3: Interpretation

This clause sets out definitions of terms used in the measure.

"Agency" is defined so that the term will encompass courts and tribunals, the police force and municipal and district councils as well as State Government administrative units, statutory bodies and officers. The term does not include the Houses of Parliament, Parliamentary committees, members of Parliament or parliamentary officers and staff.

"Official record" is defined as any record made or received by an agency in the conduct of its business, but not including—

(a) a record made or received by an agency for delivery or transmission to another person or body (other than an agency) and so delivered or transmitted; or

(b) a record made by an agency as a draft only and not for further use or reference; or

(c) a Commonwealth record as defined by the *Archives Act 1983* of the Commonwealth, as amended from time to time, or an Act of the Commonwealth enacted in substitution for that Act; or

(d) a record that has been transferred to the Commonwealth.

"Record" will mean any written, graphic or pictorial matter or a disk, tape, film or other object that contains information or from which information may be reproduced (with or without the aid of another object or device).

Clause 4: Application of Act

This clause allows regulations to be made to exclude or modify the application of the measure to agencies or official records.

PART 2

OBJECTS OF ACT

Clause 5: Objects of Act

The objects of the measure are—

(a) to establish the office of *State Records*—

(i) as the principal repository for official records that are no longer required for current administrative purposes; and

(ii) with general responsibility under the Minister for the administration of this measure; and

(b) to ensure that official records of enduring evidential or informational value are preserved for future reference; and

(c) to promote the observance of best practices by agencies in their management of official records; and

(d) to ensure that each agency is afforded prompt and efficient access to official records in the custody of State Records for which the agency is responsible; and

(e) to ensure that members of the public have ready access to official records in the custody of State Records subject only to exceptions or restrictions that—

(i) would be authorised under the *Freedom of Information Act 1991* or Part 5A of the *Local Government Act 1934*; and

(ii) are required—

· for protection of the right to privacy of private individuals or on other grounds that have continued relevance despite the passage of time since the records came into existence; or

· for the preservation of the records or necessary administrative purposes.

Subclause (2) requires that the measure be administered and standards formulated and determinations and decisions made so as to give effect to the objects set out above.

PART 3

OFFICE AND MANAGER OF STATE RECORDS

Clause 6: Office and Manager of State Records

This clause provides that there is to be an office of *State Records*. The office is to consist of Public Service employees headed by a Manager of State Records.

Clause 7: Functions

Under this clause State Records is to have the following functions:

(a) receipt of official records into its custody;

(b) the organisation, retention, conservation and repair of official records in its custody;

(c) the making of determinations (with the approval of the Council) as to the disposal of official records;

(d) publishing or assisting in the publication of indexes of, and other guides to, the official records in its custody;

(e) providing for public and agency access to the official records in its custody;

(f) assisting in identifying official records in its custody the disclosure of which might constitute a contravention of aboriginal tradition;

(g) providing advice and assistance to agencies with respect to their record management practices;

(h) issuing standards relating to record management and assisting agencies to observe the best record management practices;

(i) promoting awareness of State Records and its functions;

(j) any other functions assigned to it by statute or by the Minister.

Clause 8: Delegation

A delegation power is conferred on the Manager of State Records.

PART 4

STATE RECORDS COUNCIL

Clause 9: Establishment of Council

This clause requires the establishment of a State Records Council with a membership with expertise in relevant fields and representatives of State and local government.

Clause 10: Functions

The Council is to have the functions of approving determinations relating to the disposal of official records under Part 7 and providing advice to the Minister or the Manager with respect to policies relating to record management or access to official records.

Clause 11: Terms and conditions of office

This clause regulates the terms and conditions of office of members of the council.

Clause 12: Procedures of Council

This clause regulates the procedures to be followed by the Council at meetings.

PART 5
CARE AND MANAGEMENT OF OFFICIAL RECORDS

Clause 13: Maintenance of official records

A duty is imposed on every agency to ensure that the official records in its custody are maintained in good order and condition. This is subject to provisions allowing for the transfer of records to State Records' custody and the proper disposal of records.

Clause 14: Standards relating to record management practices

Under this clause, the Manager may, with the approval of the Minister, issue standards relating to the record management practices of agencies. Observance of the standards is, however, mandatory only in relation to administrative units of the Public Service and agencies or instrumentalities of the Crown (other than an agency or instrumentality excluded by regulation).

Clause 15: Surveys of official records and record management

The Manager may conduct surveys of the official records and record management practices of agencies. Reasonable cooperation and assistance in required from agencies in the conduct of such surveys.

Clause 16: Inadequate record management practices to be reported

The Manager is required to report to the Minister any inadequacies found in the record management practices of agencies.

Clause 17: Damaging, etc., of official records

This clause makes it an offence if a person, knowing that he or she does not have proper authority to do so, intentionally damages or alters an official record or disposes of an official record or removes it from official custody. A maximum penalty of $10 000 or imprisonment for 2 years is fixed for such an offence.

Subclause (2) makes it clear that the disposal of official records (that is, destruction, transfer from official custody, etc.) will only be authorised by a determination under Part 7 or other authority conferred by or under an Act.

A court convicting a person of an offence under the provision is empowered to order the payment of compensation.

PART 6
CUSTODY OF OFFICIAL RECORDS

Clause 18: Voluntary transfer to State Records' custody

This clause spells out that agencies may deliver any of their records into State Records' custody subject to the power of the Manager to decline to receive records for some practical or other proper reason.

Clause 19: Mandatory transfer to State Records' custody

Mandatory transfer of an agency's official records into State Records' custody is required—

(a) when the agency ceases to require access to the records for current administrative purposes; or

(b) during the year occurring 15 years after the record came into existence,

whichever first occurs.

The clause makes provision for the arrangements for such delivery and for postponements or exemptions from the requirement for delivery.

Clause 20: Restriction under other Acts on disclosure of information

The clause requires an agency delivering records into State Records' custody to advise of any legal restriction on the disclosure of their contents.

Clause 21: Recovery of official records in private hands

The Manager is empowered to require a person who the Manager believes has custody or possession of an official record otherwise than in an official capacity (and whether or not ownership of the record has passed to that person) to deliver the record into State Records' custody.

If a person fails to comply with such a requirement the Magistrates Court may, on the application of the Manager, order the person to deliver the record into State Records' custody.

The clause makes provision for discretionary payment of compensation for deprivation of a record.

Clause 22: Keeping of official records in premises other than State Records' premises

On the recommendation of the Manager, the Minister may, make arrangements with the Commonwealth, another State, or any other person for the keeping and use of records in premises other than premises under the control of the Manager or in premises jointly controlled by the Manager and the Commonwealth, the other State or other person.

PART 7
DISPOSAL OF OFFICIAL RECORDS

Clause 23: Disposal of official records by agency

An agency is not to dispose of official records except in accordance with a determination made by the Manager with the approval of the Council. A determination or approval may be general and relate to classes of official records. If there is a dispute as to a determination relating to disposal, the Minister may, on application, determine the matter.

Clause 24: Disposal of official records by Manager

The Manager may, with the approval of the Council, dispose of records that are not worthy of preservation. A determination or approval again may be general and relate to classes of official records. The Manager must, before disposing of a record, obtain the consent of the agency responsible for the record and consult with any other person who has, in the opinion of the Manager, a proper interest in the record.

PART 8
ACCESS TO RECORDS IN CUSTODY OF STATE RECORDS

Clause 25: Agency's access to records in custody of State Records

The agency responsible for an official record in the custody of State Records is to have such access to, and may make or direct such use of, the record as it requires. However, an agency will not be entitled to resume possession of an official record that has been in existence for 15 years or more for longer than is reasonably necessary for the proper performance of the functions of the agency. If there is a dispute as to access by an agency, the Minister may, on application, determine the matter.

Clause 26: Public access to records in custody of State Records

Public access to official records in State Records' custody is to be governed by determinations made by the agencies responsible for the records in consultation with the Manager. The Manager may also determine conditions as to access that the Manager considers necessary for the preservation of a record or for administrative purposes. Any limits on access are, however, to the subject to the rights of access conferred by the *Freedom of Information Act 1991* or Part 5A of the *Local Government Act 1934*. In this connection, reference should also be made to the object set out in clause 5(1)*(e)* of the Bill.

PART 9
MISCELLANEOUS

Clause 27: Records other than official records

This clause makes it clear that the Manager may accept records (other than official records) or other objects that he or she considers appropriate to be kept in the custody of State Records. The Manager may, in accepting such a record or other object, agree to be bound by conditions and, in doing so, he or she will be binding future holders of the office of Manager.

Clause 28: Act applies despite secrecy provisions

This clause ensures that official records may be delivered into custody of State Records despite the provisions of any other Act or law preventing or restricting the disclosure of official information or information gained in the course of official duties.

Clause 29: Protection in respect of civil actions or criminal proceedings

This clause provides necessary protection in relation to criminal liability, or liability for defamation or breach of confidence or other civil liability, that might otherwise arise through the administration of the measure.

Clause 30: Evidentiary provisions

An official record produced from State Records will have the same evidentiary value as if it were produced from the agency from which it was obtained. An apparently genuine document purporting to be a copy, or to state the contents, of an official record in the custody of State Records and to be certified by the Manager as an accurate copy, or statement of the contents, of the record will be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the contents of that record.

Clause 31: Certificate as to disposal of official record

A certificate signed by the Manager certifying as to disposal of an official record by the Manager will, in the absence of proof to the contrary, be accepted as evidence of the matter so certified.

Clause 32: Charges for services

State Records may, as approved by the Minister, fix and impose charges in relation to services provided to agencies or the public.

Clause 33: Annual report

This clause requires the Manager to provide an annual report to the Minister and requires the report to be tabled in Parliament.

Clause 34: Regulations

This clause empowers the making of regulations.

SCHEDULE

Amendments and Transitional Provisions

This schedule contains necessary transitional provisions and makes consequential amendments to the *Freedom of Information Act 1991* and the *Local Government Act 1934*.

However, the schedule also makes several substantive changes to the *Freedom of Information Act 1991* and Part 5A of the *Local Government Act 1934*. Section 20 of the *Freedom of Information Act* currently allows refusal of access (with limited exceptions) to documents that came into existence before 1 January 1987. Under the amendments this ground for refusing access will not apply if 20 years have passed since the end of the calendar year in which the documents came into existence. In practice, the vast majority of these documents will be in State Records' custody.

Clause 1 and 2 of schedule 1 of the *Freedom of Information Act* make Cabinet and Executive Council documents exempt documents (exempt from the right of public access). It is currently an exception to this if such a document has been in existence for 30 years. The amendments reduce this period to 20 years.

Section 65d of the *Local Government Act* makes documents declared by a council or council committee to be confidential exempt from public access for 30 years. Again, this period is reduced to 20 years.

Mr QUIRKE secured the adjournment of the debate.

MFP DEVELOPMENT (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 October. Page 107.)

Mr FOLEY (Hart): I intend to speak briefly to the Bill, which has a number of functions that can best be described as administrative amendments. The Bill seeks to reduce the size of the MFP Board by a reasonable number of positions. That results from the fact that the Federal Government has withdrawn its financial and, dare I say, general support for the MFP as a national project. Therefore, there is a sustainable argument that the board should be reduced in size.

The Bill also seeks to dissolve the Community Advisory Committee, and the Opposition intends to move an amendment in that regard. The legislation presently provides that there be not less than nine and not more than 12 members. Consistent with the Government's plans to streamline the MFP, we accept the argument that the committee should be reduced in size, but we do not agree that it should be abolished altogether. We believe there is a useful function for the committee, which is providing a useful function and service to the MFP in terms of having important community involvement and input, particularly as we move to the important next stage of the MFP, that is, the urban development component, and I will speak on that shortly.

The other element of the Bill is an attempt by the Government to remove a statutory requirement requiring the MFP to report to both the Economic and Finance Committee and the Environment, Resources and Development Committee of this Parliament. We looked at that. I have said in this place previously that, over time, we have required the MFP to answer to too many people. It seems to me to be spending most of its time answering to Government committees and Government Ministers and not enough time doing what it should be doing. Much of that reporting function has now been removed with the Federal Government no longer having a role.

It no longer needs to report to the Federal Minister or to the Federal Estimates Committee, and it no longer reports to at least one other State Government committee to which it was required to report on a regular basis. However, we believe that it is essential that the Economic and Finance Committee maintains a watching brief over the MFP. That committee has been able to highlight and monitor many issues, and I have no doubt that my colleague the member for Playford will mention the work of the Economic and Finance Committee in its role of supervising the finances of the MFP.

I understand why the Minister may want to remove the statutory requirement for the MFP to report to these committees. However, when I was undertaking some basic research I discovered that when the original Bill to establish the MFP Corporation was brought into the Parliament there was no requirement to report to these committees. It was a decision of the then Liberal Opposition to insert into the Bill—

Mr Quirke: It was Martyn Evans.

Mr FOLEY: I apologise; I thought it was a Liberal member. I would not want to distort the facts. I do not want to be accused of ever telling an untruth to the Parliament, so before I head down that track I will quickly pull back. In any event, the Parliament inserted this provision in the original Bill. That was a good move, and it is something that we believe should be maintained. I indicate that I have had discussions with both my Labor and Liberal colleagues on the Economic and Finance Committee and, if at all possible, they look forward to maintaining a role in overseeing the MFP. I know that my colleague the member for Playford is very much of the view that, from time to time, the Economic and Finance Committee should look at the MFP.

Again it will be demonstrated that, in relation to important pieces of legislation which affect the economy of this State, the Opposition and the Government are able to find common ground. This is yet again another example of an Opposition being constructive and pragmatic, an Opposition being prepared to sit with Ministers and the Government to work through important pieces of reform. This Bill is perhaps not in the same league as other areas of reform which we have worked through, but it is another example of an Opposition which has the economic development of this State foremost in its decision-making.

The future of the MFP is a very interesting question. Today's debate on changes to the MFP Act may be a little premature. It may be that we are having these discussions at a time when the MFP's existence is under real threat from the very Government which brings this Bill forward. We all know that the Government has had before it for some time proposals by Delphin Lend Lease to create a smart city, an economic development for the future in the Levels and Technology Park precinct. I understand it involves some 4 000 homes and, as the Government's own figures indicate, in excess of 1 500 jobs.

This is something with which the Government appears to be having great difficulty. It seems that the Government internally is having great difficulty coming to grips with it. I make this point—and I have done it publicly, and I will do it again: should the Government fail to endorse the urban development, the economic development for the city of the future, it will be the end of the MFP. There will be no MFP should the urban development not be approved, because you cannot have a multifunction polis if you do not have a city; you cannot have an economic development future if you do not have the basic infrastructure of an MFP. If the Government chooses not to go ahead with that development—and

essentially it is a private sector driven development—the MFP is dead and buried. I will certainly be walking away from it, and I know that many of my colleagues will have little difficulty in agreeing to walk with me on that one—in fact, the member for Playford will probably be pushing me.

The point is that the MFP has received great attention and great criticism over many years. We have expended in excess of $200 million of precious taxpayers' money. There are many critics of that expenditure both within the Labor Party and the Liberal Party. It seems to me to be odd that, as we are getting close to the point of almost delivering something, we are about to pull the rug from under it. It seems to me to be a nonsensical argument that you can spend $200 million, suffer the pain and the trauma which we have all had to experience, including those members who have had to go out there and be positive occasionally about the MFP, and then just as something is about to be delivered it is dropped. Quite frankly, if the Government does that, it does not want economic development in this State; it certainly does not want an MFP. It also slows that it is a Government that is susceptible to lobbying from self-interest groups in this State.

It is no secret that a number of developers in this State are self-interested. It is no secret that certain developers in this State have paid a great deal of money to consultancies such as Kortlang to trot around and lobby Ministers, bureaucrats and whoever else to undermine the urban development project. It is Adelaide's worst kept secret. Certain of those developers, strangely enough, were the same developers who initially expressed interest in being a part of this urban development and, I understand, may have even put in some early expressions of interest and, if not, tenders to be part of consortiums to take on this development. Is that not typical of Adelaide? Is it not typical of Adelaide that, when we have the potential to have Lend Lease, one of the nation's largest property companies, together with Delphin whose quality developments are for all to see at Golden Grove and West Lakes, we want to say, 'No, thank you, we would rather not proceed.'

If the Hickinbothams of this world want to undermine these projects, so be it, but the Hickinbothams of this world will have to remember one important fact. I will remember for as long as I am in this Parliament the types of people who have been undermining the MFP and the sorts of tactics employed to kybosh what should be a very important economic development initiative for this State. I am not impressed with the self-interest exhibited by certain groups, and I believe Hickinbotham is one such group. These groups have their own reasons for proceeding in that manner—and they are pretty evident—but it is very disappointing.

With those few words, I appeal to the Minister, the Cabinet and the Premier that, after having spent $200 million of taxpayers' money and on the eve of putting forward the first private sector driven economic development initiative, they should let it proceed. Do not listen to those wanting to undermine it, do not listen to the small, parochial self-interest views of South Australian companies that have no vision and are not prepared to tackle competition head on. Do not listen to those narrow-minded views but support this very important project because failure to do so will be the death of the MFP. I give this commitment now: the Opposition will withdraw its support for the MFP if the urban development project is scuttled by Cabinet.

Mr QUIRKE (Playford): I want to make a disclaimer at the beginning. What you are about to hear is not sanctioned by Caucus and, in fact, may well be the subject of the next Caucus meeting. I have not gone around to my colleagues getting the numbers for this project but, as the member for Playford, I want to make a few points about this project. First, I hope somebody has had the decency to pick up the phone and ring Mount Lofty House because, when this board is reduced in size, it will lose a lot of money. The Economic and Finance Committee did not get any reports of any activity at the MFP site, apart from a couple of mosquito-ridden ponds which I am not sure anybody asked them to build, but they proved to be reasonably effective at doing that. We would get the list of taxi rides, dinners at Mount Lofty House—which was always a very popular spot—and helicopter rides over the point. They took me down there only in a limousine bus, dropped me off in the city and made me walk home, but that is fine; I have no problem with that. They did not take me to Mount Lofty House, either.

The second point I make is that I am looking forward to 30 October, because on that date they are coming back. I always see a smile on your old copper's face, Mr Acting Speaker, when we get the list and see $1 200 for taxi rides for someone, money for this and that, all the fancy dinners, and the $26 000 or $27 000 that they managed to spend in one day on entertaining themselves, sitting there and discussing some of the highfaluting ideas that have yet to show much substance at all.

In addition, I well remember, when I was elected as the Chair of the Economic and Finance Committee, walking up the street on 11 November 1992 to Dazzeland, which is where the MFP is housed. I only walked up the street, but they flew in a bloke from England, and they had wonderful, glossy, colour photos of what they were going to build. There were all these magnificent houses they intended to build at Gillman. That idea died. The idea of using excremental bricks died; I think the idea of re-using your own waste water died—I am not sure about that—and a few other ideas were floated that day. No doubt if you go down to those people today that is what you get. I may be what my colleague the member for Hart says I am—a typical old Adelaidian who cannot see past the nose on my face, or what one of my Federal ministerial colleagues, a Labor Minister who was quite close to the Minister for Infrastructure and who certainly has not spoken to me for three years, described as a person who would not know where to put the rubbish bins around town. That might be true, but I would not have cost the community $100 million: I would have had something to show for it. That is the point I want to make.

My constituency is crying out for money for roads, pavements and a number of things, and we all go to bed at night happy because we know that the MFP is down the road and that nice things will happen there. I do not know where this fairyland stuff comes from, or why grown men and women are paying for it. I just cannot understand this. I cannot understand why this Parliament is so remote from the community out there that does not understand this, because the people putting it forward do not understand it either. That is why they are running radio programs—to tell them what the MFP stands for. The one thing they do understand is that they are not getting much out of it.

The fourth point I want to make in this very limited time is that South Australia needs another 4 000 houses in that bracket like it needs a hole in the head. I do not even know who Kortlang are. I make clear that no-one has come to speak to me about this project, except a couple of officers from the MFP for whom I do have a bit of time. They asked me to

detail my criticisms—as I have done—and whether we could sit down and talk about it. I appreciate those officers' taking that time and trouble. I make the point that no-one has come to see me, but I can tell you this: out in my electorate we would not mind a few other things, such as a few schools being done up. I have a guy waiting for a knee operation and the local orthopod will not even see him until December—and then he will not operate on him for another year. I think that bloke would like his leg fixed, and a few other pensioners out my way would like some other things done as well. But what do we get? We all go to sleep at night knowing that one day these marvellous developments down the hill may take shape. If ever a project was the emperor's new clothes, this is it.

I spoke to the Minister previously and said that I would comment on the fact that these people do not even want to appear before committees, because if they do not appear before committees they do not do anything else. I discovered that I was wrong about that. I must say that I have some faith in this Minister, because I think he will call them to account. I am just sorry that this whole saga has gone on and been as expensive for my constituents as it has been so far. I make plain again that these are my comments; these are my views.

When Ross Kennan came here in 1993, he came to the Estimates Committee and wondered what was going on. I took him around the corner and said, 'It's like this, Ross. When they ask you what you have done since last year, all you have to do is say, "Mr Chairman, so much has happened since the last time we were here" and prattle on like that for a while.' He got very good at that. He did it in 1993 and again in 1994 when we were in Opposition, and in 1995 he did a great job telling us that so much had happened. The only thing is that it does not take very long to go around and look at the MFP.

I just hope that we get a bit of commonsense and start living in the real world here in South Australia. We should get a few things sorted out and fix up a few problems for my constituents, such as the hospital waiting lists. We should sort out some of the orthopaedic surgeons who obviously will not do anything unless there is a quid in it for them. That is the bottom line to the whole thing. We should fix up a few schools, roads and black spots rather than the Deputy Premier having to hide a couple of hundred speed cameras to pay this crowd's Mount Lofty House bills.

The Hon. J.W. OLSEN (Minister for Industry, Manufacturing, Small Business and Regional Development): The first point I would make in response to the member for Playford is that many of the instances he referred to resulted from Commonwealth Government decisions and Commonwealth Government support. The expenditure of funds related to the International Advisory Board. That board was a creature of the Commonwealth Government, and its expenditure was basically Commonwealth funds: they were not South Australian Government funds.

In relation to reshaping and refocussing the MFP, I have spent a considerable amount of time in the past 2½ years achieving that objective. There has been a change of CEO, which could not occur until there were board changes. We had to effect the board changes to bring about the CEO change. As soon as that was effected, we indicated the four key projects for delivery in 1996. I do not argue for one moment that the gestation period for this project has not been far too long: it has. But it has been far too long for a number of reasons, one of which was that the split responsibilities between the two Governments—the Federal Government and the South Australian Government—has in many instances meant difficulty in directing, bringing to account and having delivery of major projects. That is now no longer the case.

I point to the decisions that were made during 1995, the actions that have been taken in 1996 and the appointment of Laurie Hammond as the new CEO. He is a down-to-earth, focused person who turned around the New Zealand equivalent of the CSIRO so that it is now recognised as one of New Zealand's leading edge R&D institutions world wide. He is now involved with us in driving to bring about outcomes.

I agree with the member for Playford. If there is one objective that I have in this, it is to ensure that there is a return for the taxpayers' funds that have been invested in this project. That means that we must drive it through to a conclusion. It is not that it might be too difficult or too hard and that we should give up and walk away. We must ensure that there is an outcome in the interests of all taxpayers in South Australia. My determination and driving force is to get an adequate return for the taxpayers of South Australia.

The member for Hart referred to the current proposal for the board which the Government is considering at the moment. This is an important proposal, and I do not disagree at all with his view. It is on that basis that I have presented the proposal for Cabinet decision, but the Cabinet will make its determination on that, one would expect, during the next few weeks. The measures before the House reflect the change in Commonwealth Government support: a lack of cash flow of $4 million, which includes funding the IAB, helicopter rides and $26 000 dinners. I only wish that the member for Playford had taken up that issue with his Commonwealth ministerial colleague at the time and not publicly with me, because that is in fact—

Mr Quirke interjecting:

The Hon. J.W. OLSEN: I understood that there was some difficulty in communication between the two. But that was really a matter of Commonwealth influence, not so much State influence.

However, we have a Bill before the House that seeks to reduce the size of the board, appropriately so, given the withdrawal of Commonwealth funding. What we also seek to do in cooperation with that is simply to streamline. Comments have been made by members opposite that this is a ploy by the administration not to be accountable to officers of Parliament. That is not the case at all, because any organisation that receives South Australian Government funding can of its own resolution of respective committees be interviewed by those committees. So deleting from this measure does not delete them from scrutiny at any time in the future, because the committee has the capacity to undertake those tasks, interviews and investigations and report to Parliament on the activities of various organisations. So, let us put that matter into its proper context.

The Opposition has put forward some amendments to which the member for Hart referred. I have had discussions with some of my colleagues and Opposition Parties, and I will say this in response: there is one thing that I think I have become after having served almost 18 years in politics, and that is a realist. Being a realist means that the amendments moved by the member for Hart will be agreed to by this Parliament in the fullness of time. That being the case, I indicate now that in Committee we will accede to the amendments put forward by the member for Hart. The only appeal that I make is that we ensure that maximum time is spent by this organisation during the next six to 12 months

in actually delivering on the key projects. That must be the driving force, the only focus in the short term. With those few words, I commend the Bill to the House.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

Mr FOLEY: The Opposition opposes the amended definition of 'advisory committee'.

Clause negatived.

Clause 4 passed.

Clause 5—'Repeal of part 4.'

Mr FOLEY: The Opposition opposes this clause.

Clause negatived.

New clauses 5 and 5A.

Mr FOLEY: I move:

Page 2, line 1—Insert the following new clauses:

Amendment of section 26—Composition of advisory committee.

5. Section 26 of the principal Act is amended by striking out from subsection (1) 'not less than 9 and not more than 12 members' and substituting 'eight members'.

Amendment of section 27—Procedures of advisory committee.

5A. Section 27 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) Five members of the advisory committee constitute a quorum of the committee and no business may be transacted at a meeting of the committee unless a quorum is present.

Proposed new clause 5 simply reduces the size of the advisory committee from 12 to eight, and the other new clause is consequential.

New clauses inserted.

Clause 6—'Reference of corporation's operations to parliamentary committees.'

Mr FOLEY: The Opposition opposes this clause given the reason in the second reading explanation. We feel that both the Economic and Finance Committee and the Environment, Resources and Development Committee have statutory roles. I note that the member for Newland is pleased with this initiative by the Opposition, as is the member for Peake.

Clause negatived.

Clause 7—'Transitional provision.'

Mr FOLEY: I move:

Page 2, line 6—After 'the corporation' insert 'and the advisory committee'.

I am advised by Parliamentary Counsel that this amendment is necessary.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

ANZ EXECUTORS AND TRUSTEE COMPANY (SOUTH AUSTRALIA) LIMITED (TRANSFER OF BUSINESS) BILL

Received from the Legislative Council and read a first time.

ADJOURNMENT

At 4.26 p.m. the House adjourned until Tuesday 22 October at 2 p.m.

HOUSE OF ASSEMBLY

Tuesday 15 October 1996

QUESTION ON NOTICE

WHISTLEBLOWERS

6. **Mr ATKINSON:**

1. Why has the claim for compensation and an apology by whistleblowers Lindsay Grist, Cliff Walkington, Steve Comeagain and Steve O'Brien against the Aboriginal Community College not been resolved by the Equal Opportunity Commission, in the past 29 months?

2. What is the number of cases in which the Whistleblowers Protection Act has restored rights to an whistleblower of which he or she had been deprived?

The Hon. S.J. BAKER:

1. The ability of the Commissioner to resolve complaints made under the Whistleblowers Protection Act (or any other legislation) is dependent upon many factors, including the will of the parties to conciliate and, in some cases, on the capacity of parties to meet the conditions suggested by opposing parties.

In the cases mentioned, one of the whistleblowers refused to continue to conciliate; consequently the complaint was unable to be resolved through conciliation.

In the case of the other three complaints, in principle agreements were reached with the respondent in February 1996 after many months of negotiation. The respondent would not sign a formal agreement, on the basis that it currently lacked financial capacity to meet the terms of any such agreement. The respondent is currently seeking funds which would allow it to settle the claims on the basis agreed in principle in February of this year.

2. This question is somewhat difficult to understand. The Act, in essence, does two things. It provides a 'shield' to whistleblowers so as to protect them from civil liability, e.g. actions in defamation. It also provides a 'sword' to empower whistleblowers to take action if they have been victimised.

The Act came into operation on 20 September 1993. Since that time, less than a dozen complaints have been received by the Commissioner. However, complainants have the option of going directly to court without ever lodging complaints with the commission. I am consequently unable to answer the question about 'restored rights' since it is possible that some complainants have taken their grievances directly to court.

No whistleblower complaints have actually been settled in the commission to date. A number have been declined and forwarded, at the request of the complainants, to the Equal Opportunity Tribunal. In no such case has the tribunal yet made a judgement in favour of a complainant.

The best answer I can give to the second question is that there are currently no cases in which whistleblower complaints have been settled by the commission and no cases in which the tribunal has upheld a complaint of victimisation.