LEGISLATIVE COUNCIL

Tuesday 14 April 1987

The PRESIDENT (Hon. Anne Levy) took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Dangerous Substances Act Amendment,

Electrical Workers and Contractors Licensing Act Amendment,

Enfield General Cemetery Act Amendment,

Fisheries (Gulf St Vincent Prawn Fishery Rationalisation),

Industrial and Commercial Training Act Amendment,

Motor Vehicles Act Amendment (1987),

South Australian Metropolitan Fire Service Act Amendment,

State Emergency Service,

Statutes Amendment (Finance and Audit),

Trade Measurements Act Amendment,

Unclaimed Goods.

FAIR TRADING BILL

At 2.17 p.m. the following recommendations of the conference were reported to the Council:

As to Amendment No. 1:

That the Legislative Council do not further insist on its disagreement thereto.

As to Amendments Nos 2 and 3:

That the House of Assembly do not further insist on its amendments and make the following additional amendments to the Bill:

Clause 31, page 15, lines 28 and 29—Leave out subclause (4).

Clause 32, page 15, after line 39—Insert 'and'.

Clause 32, page 15, lines 42 to 44—Leave out all words in these lines.

Clause 43, page 20, line 18—Leave out '11.00' and insert '10.00'.

And that the Legislative Council agree thereto.

As to Amendments Nos 4 to 46:

That the Legislative Council do not further insist on its disagreement thereto.

POTATO INDUSTRY TRUST FUND COMMITTEE BILL

The Hon. C.J. SUMNER (Attorney-General): The managers for the two Houses conferred together at the conference, but no agreement was reached.

The PRESIDENT: As no recommendation from the conference has been made, the Council, pursuant to Standing Order 338, must either resolve to not further insist on its amendments or lay the Bill aside.

The Hon. C.J. SUMNER: I move:

That the Council do not further insist on its amendments.

This Bill was amended by the Legislative Council initially. No agreement has been reached and it is a matter of whether or not the Council will insist on its amendments. The consequences of insisting are that the Bill will not pass the Parliament and will not become law. As you, Ms President, have indicated, it will be laid aside. It is the Government's view that this measure should proceed as originally introduced into the Council and for that reason I ask the Council not to further insist on its amendments.

The Hon. M.J. ELLIOTT: I oppose the motion. The Bill as originally introduced into this place did not need to come before us at all. The Minister had the power already to set up his own advisory committee. We were rubber stamping the fact that he would have an advisory committee with the people that he chose to put on it. A number of people in this Chamber, myself included, the Hon. Mr Dunn and others stated that the growers who contributed to the fund should have a right to put forward representatives on that committee. That is still the case. If the Minister wants the power to choose grower representatives, even though they will be in the minority, I find it completely untenable and therefore will not be supporting the motion.

The Hon. PETER DUNN: The Liberal Party will also not be supporting the motion. Obviously they are growers' funds and there is no argument that they should have the right to choose representatives and to advise the Minister on what happens to those funds. As the Hon. Mr Elliott has said, the Minister does have the right to determine what happens to those funds. As I understand it they are invested with the South Australian Government Financing Authority and will accrue interest. Until such time as the Minister decides what to do with those funds they will continue to accrue that interest.

One disturbing thing is the fact that it is indicated that the whole $1 million plus would be run down in a period of two to three years. I do not believe that the growers would appreciate that. It is their intention that the money be invested and that the cost of promotion and research be taken from the interest accrued from the invested money. In that light we would have to insist on our amendments.

The Hon. C.J. SUMNER: I will not divide on the matter.

The Hon. Peter Dunn interjecting:

The Hon. C.J. SUMNER: I thought that all members on that side of the Chamber were able to exercise their conscience. It appears as though the Party Whips have cracked. The Opposition is almost as bad as the National Party in Queensland. In the light of the clear expression of majority by the Liberals and the Australian Democrats, I will not divide on the matter. I ask members to reconsider their original opposition to my motion.

Motion negatived.

Bill laid aside.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner):

Pursuant to Statute—

Explosives Act 1936—Regulations—Fireworks Permits.

By the Minister of Consumer Affairs (Hon. C.J. Sumner):

Pursuant to Statute—

Commissioner for Equal Opportunity—Report 1985-86.

Trade Standards Act 1979—Report 1985-86.

By the Minister of Corporate Affairs (Hon. C.J. Sumner):

Pursuant to Statute—

National Companies and Securities Commission—Report and Financial Statements 1985-86.

By the Attorney-General, on behalf of the Minister of Health (Hon. J.R. Cornwall):

Pursuant to Statute—

Department of Environment and Planning—Report 1985-86.

Regulations under the following Acts—
Drugs Act 1908—Poisons.
Fisheries Act 1982—
West Coast Prawn Fishery—Licences.
Gulf St Vincent Prawn Fishery—
Licences.
Licence Numbers.
Housing Improvement Act 1940—Whyalla Standards Report.
Planning Act 1982—District Council of Port Elliott and Goolwa.

FAIR TRADING BILL

The House of Assembly intimated that it had agreed to the recommendations of the conference.

Consideration in Committee of the recommendations of the conference.

The Hon. C.J. SUMNER: I move:

That the recommendations of the conference be agreed to.

There were no major disagreements remaining for resolution at this conference of managers. When moving the motion to establish a conference, I explained one issue relating to traders keeping credit reports that they had received from credit reference agencies, the problems that this would have caused in an age of computerisation and the difficulties of requiring traders to keep reports which had been received on line by way of a computer terminal and which were then printed possibly in code and would not be understood by the consumer in any event. Agreement has been reached to delete the requirement on a trader to do that in the knowledge that the credit reference agency will keep the report and the information on the consumer. The consumer has a right to see and correct that information and the trader must keep the name and the address of the person from whom he received the credit report. I believe that that adequately protects the consumer's position. That was not an area of disagreement: that was agreed.

The main area of disagreement was over the hours at which a creditor or its agents could approach a debtor in their own home. The Bill passed the Legislative Council with agreement on there being an exclusion on public holidays as a time when approaches could be made. The hours on other days when approaches could be made were prohibited from 11 p.m. to 7 a.m. That was different from the Government Bill which, when it was introduced, provided a prohibition on approaches between the hours of 9 p.m. and 8 a.m. The Government still feels that the restraints that it proposed, namely, public holidays and between the hours of 9 p.m. and 8 a.m., were reasonable and perfectly justified. In other words, we felt quite strongly that there was no case to approach a person in their own home after 9 p.m. or before 8 a.m. The Council initially disagreed with that and thought that approaches could be made up to 11 p.m. and after 7 a.m.

The end result of the conference was a compromise whereby the evening time was changed from 11 p.m. to 10 p.m., so there will now be a prohibition on approaching debtors in their homes between 10 p.m. and 7 a.m. That is not something which the Government agrees with; nevertheless, in the interests of getting the Bill through the Parliament, it was a compromise position which is now recommended as part of the matters coming forward from the conference of managers.

The other area of dispute was whether a creditor should have direct access to a debtor in circumstances where a legal practitioner was acting for the debtor. The Government's proposal was that that should be prohibited. The Council deleted that, and that matter was discussed at the conference as well. The Council was not prepared to alter its view on that and, as part of the compromise which I have already mentioned, the House of Assembly agreed to no longer persist with its proposition that there should be a complete prohibition on creditors directly approaching debtors when debtors had legal practitioners acting for them. So, as a result of the agreement, it will now be possible for a creditor to approach a debtor directly, even when the debtor has legal representation. Again, the Government is not happy with that proposition and preferred the Bill as it was originally introduced, but the compromise that we have now from the conference is a part of a package which is recommended.

The important point to make is that at present there is no such prohibition and there is no prohibition on debtors approaching creditors at any time of the day. So, at least in terms of the existing law, what we have is an improvement and, rather than see the whole legislation defeated because of a disagreement on this basis, the House of Assembly and the Government have agreed to the compromises embodied in the report.

The Hon. K.T. GRIFFIN: The Opposition supports the resolution agreed to at the conference. The first amendment essentially deals with counselling, aiding, abetting or procuring the commission of an offence. That amendment was always a drafting matter and one which we did not at any stage oppose in substance. The amendments relating to the amalgamation of the trade practices provisions of the Trade Practices (State Provisions) Bill, with this Fair Trading Bill, was something to which we referred at the second reading stage and during Committee, and obviously the Government has heeded the submission from a number of bodies which sought to have as much of the law relating to consumer protection and trade practices in the one Bill as possible.

The other amendments are as the Attorney-General has indicated. One relates to communication with a debtor in circumstances where a lawyer has been appointed, and I am pleased that that amendment is no longer to be insisted on; the other is in relation to the time during which a person who is owed money (that is, a creditor) may not make a telephone call or a personal attendance on the debtor. I would have preferred no limitation. The amendment proposed in the Bill is a minor modification to the position of the majority of the Council during the Committee stage of consideration of the Bill, and in those circumstances I am pleased to support it.

Motion carried.

SELECT COMMITTEE ON ENERGY NEEDS IN SOUTH AUSTRALIA

The Hon. I. GILFILLAN brought up the second interim report of the select committee, together with the relevant evidence.

Ordered that report be printed.

MINISTERIAL STATEMENT: SAGASCO AND SAOG

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. C.J. SUMNER: This is the same statement that was given by the Premier in another place. The Government has reached an 'in principle' agreement with the board of the South Australian Gas Company to merge the activities and assets of that company with the activities and

assets of the South Australian Oil and Gas Corporation. This proposal will create a strong new corporate identity which will be headquartered in Adelaide and which will be orientated towards the development of business opportunities within the South Australian economy.

The proposed merger does not involve a sale of Government assets. The Government will not receive any cash from the merger and there will be no decrease in the value of assets owned by the Government—in fact, that value is likely to be increased over time. Both companies will benefit from the removal of existing limitations and constraints on their commercial operations which will have the potential to produce benefits for all South Australians.

The proposal will be subject to the approval of existing Sagasco shareholders. In essence, SAOG and Sagasco will be merged into a holding company. As an initial step, existing Sagasco shares will be split on the basis of five for one, thus creating a total of approximately 12.3 million Sagasco shares. The Government will then, as the owner of SAOG, be issued with approximately 56.2 million new Sagasco shares. This will give the South Australian Government 82 per cent of the merged company.

The new structure will retain Sagasco as the listed company holding all the assets of the combined group. The new Sagasco will have two separate operational areas. The first area will include non-utility activities such as SAOG's existing oil and gas exploration and development. The second area will be the traditional gas reticulation, sales and customer service that is currently undertaken by Sagasco. To retain control over these utility operations amendments will be required to the Gas Act 1924-1980 and the South Australian Gas Company's Act 1861-1980. These will be introduced in the next session of Parliament and it is intended to include the following features:

1. Control of the utility may not change without the Minister's consent.
2. The price of gas supplied to consumers will continue to be subject to Government regulation (currently under the Prices Act 1948-1975).
3. The subsidiary's activities will be restricted to utility activities (that is, gas supply and distribution) subject to the Minister's discretion to approve additional activities.
4. Dealings between the utility and Sagasco or any of its subsidiaries will be at arm's length.
5. There will be a limitation on the maximum dividend which can be paid by the utility.
6. Total liabilities will not exceed a prudent proportion of total tangible assets.

The listing of the combined group will allow access to the market for equity funds which will allow an improvement in the debt/equity ratio of both existing companies. This is a more appropriate source of funds for oil and gas exploration than existing debt financing. The proposal has developed from a number of sources. First, Sagasco has approached the Government in relation to amendments to the Gas Act to allow it to improve its overall commercial position, particularly in relation to fundraising and capital structure.

Secondly, the Department of State Development, through its brief to Dominguez Barry Samuel Montagu Limited, aimed at the development of South Australia's corporate sector, identified Sagasco as a well-established and well-known publicly listed company that was faced with a number of problems arising from its existing debt structure and limitations of the current Gas Act.

Thirdly, the Government, through the Natural Gas Task Force and the Department of Mines and Energy and their basic responsibility to secure long-term energy supplies, has been concerned by a number of factors and events. As honourable members are aware, there has been an increasing concentration of ownership and control of natural gas reserves in the Cooper Basin in South Australia and South-West Queensland which, along with supplies in the Northern Territory, are the likely sources of future supplies for South Australia.

In these circumstances SAOG, whose prime role is to work towards the securing of gas supplies, is currently unable to expand its activities because of significant debt levels incurred in acquiring its current assets. Further, SAOG does not have access to relatively less costly equity funds available to listed companies.

In this context and considering that current guaranteed supplies of natural gas are limited to approximately five years, the Government believes that it would be advantageous to the State to have a South Australian controlled and strongly commercially orientated group. The opportunities to engage in new activities or expansion of current areas of acitivity will be enhanced by the ability of the new company to raise equity capital or by using its greater financial strength as a basis for joint venture activities.

Either of these steps would involve a dilution of the existing shareholders' position in the company but the resulting new share would be in a considerably expanded organisation. As the major shareholder, the Government is determined to remain a substantial majority shareholder in the new company. Under this proposal, we are making better use of our resources, we are expanding their potential to work for the good of all South Australians, and we are not losing any control of our vital public assets.

MINISTERIAL STATEMENT: OVERSEAS INVESTMENT OFFERS

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. C.J. SUMNER: I have been informed by the Corporate Affairs Commission that members of the public are receiving offers by telephone and through the mail to invest in shares and securities. The commission is currently investigating offers being made by companies and persons based in Geneva. Their method of operation is to send by mail a package of glossy literature and a covering letter to a potential investor. The literature includes commentaries on developments and events which have occurred on overseas securities markets. Often reputable and internationally known companies are referred to in the text and a variety of statistical tables produced.

The theme throughout the text is apparently aimed at encouraging the reader to invest in one or more overseas companies or investment schemes. Invariably, there is a distinct lack of financial information relating to the affairs of the companies or the investment schemes in which investments are sought.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: All right. I am giving information.

The Hon. L.H. Davis: You are throwing everything at the media to try to bolster your case.

The Hon. C.J. SUMNER: I am sure that the media will give the matter the attention that it deserves and will not allow it to swamp the other announcement which I just made. Often the precise nature of the investment and the means by which the securities may be resold or realised is

not explained. Many recipients do not have a history of investing in shares and other investments. It appears that they are probably selected from a mailing list to which the offerors have access.

Shortly after receiving the literature the recipient receives a telephone call from a person overseas. During the telephone conversation the potential investor is not supplied with any information upon which he could make a meaningful assessment of the merits or otherwise of the investments offered, but he is further encouraged to invest. If the potential investor shows interest, he is informed as to how to submit an application and where to send his money. Offers of securities and shares for sale through the mail are in breach of the sharehawking and advertising provisions of the Companies (South Australia) Code. Such offers to the public should be made through the avenue of a registered prospectus.

The Corporate Affairs Commissions in Australia examine prospectus documents prior to their registration in order to ensure that the requirements of the Companies Codes are met and to attempt to ascertain whether the information contained therein may be materially false or misleading. Although the commissions can accept no responsibility for the contents of prospectuses, the Companies Codes in Australia provide to investors a right to seek some remedies in respect of false and misleading statements which may be enforced through the respective courts.

There are practical problems in seeking any remedy where the offeror and the company whose securities are being offered are located outside Australia and no prospectus has been registered in Australia. Persons who may be contemplating investing in any share or security offer are cautioned against doing so without full knowledge of the company involved and its financial position. This type of information would be available in the registered prospectus. Members of the public who have received offers through the mail or by phone should report them to the South Australian Corporate Affairs Commission. The commission, the Adelaide Stock Exchange or any stock and share broker would be able to advise a prospective investor whether the offer complies with the Companies Code provisions.

QUESTIONS

CHILD SEXUAL ABUSE

The Hon. K.T. GRIFFIN: I seek leave to make an explanation prior to asking the Attorney-General a question about the Family Court/Department of Community Welfare joint working committee and child sexual abuse.

Leave granted.

The Hon. K.T. GRIFFIN: At the beginning of 1986, grave tensions between the Family Court and the Department of Community Welfare surfaced over the way allegations of child sexual abuse were treated by the Family Court. Members will be aware that the Family Court is charged with the responsibility for resolving questions of access and custody of children of a marriage. It was alleged not to be dealing properly with allegations of child sexual abuse in that it would not allow hearsay evidence, opinions from social workers and other matters to be considered.

The issue came to a head when the department would not accept a decision of the Family Court and used the Community Welfare Act to have the Minister appointed as guardian of a child and the issues then reheard in the Children's Court. It very much suggested forum shopping. As a result, a joint working party was established involving the Family Court, social workers, people from the Department of Community Welfare and private legal practitioners with experience in this area. On 12 February 1987, I asked the Minister of Community Welfare what was happening with the working committee and when it was due to report. He could not answer and promised to get back with a reply, which we have not yet received. In fact, I am told that it may not reach any resolution of the issues, partly because it does not have any terms of reference, and, secondly, because in any event it does not appear to be making any progress on the issues which arose at the beginning of 1986.

Last week, the Attorney-General in an outburst against the Criminal Law Association and its President, Mr Borick, indicated that a draft Bill dealing with child sexual abuse had been circulated to interested parties on a confidential basis and that Mr Borick and his association had breached that confidentiality. I should say that I spoke to Mr Borick subsequent to that outburst and to others who had a copy of the draft Bill, and they did not understand that it was confidential. Even the President of the Law Society in this month's edition of the *Law Society Bulletin* makes specific comment on the Bill, so he too did not appreciate any aspect of confidentiality.

What all this indicates is that questions of proof of child sexual abuse and the protection of the child are difficult to resolve. It also indicates that there are conflicts with respect to the respective jurisdictions of the Children's Court (which is in the Attorney-General's area of responsibility) and the Family Court (which of course is Federal jurisdiction) and that some modification of procedures for interviewing children and alleged offenders could possibly be achieved now by administrative means.

In fact, regarding the procedures for inverviewing children, I understand that Judge Newman in the Children's Court in November 1986 suggested that interviews with children be taped in the interest of a higher level of accuracy in presenting evidence. The Attorney-General has the major area of responsibility for the administration of the law and the administration of justice, and therefore it seems appropriate that he should play a greater part in particular in the resolution of the difficulties between the Family Court, the Department of Community Welfare and the Children's Court, and in developing a comprehensive solution to the difficulties. My questions to the Attorney-General are:

1. Will the Attorney-General intervene to ensure that the joint Family Court/Department of Community Welfare working party focuses on the issues and in fact brings in a report in the near future?

2. Will the Attorney-General review submissions on his draft child sexual abuse Bill in conjunction with any report of that working party, particularly in respect of the interrelationship between the two?

3. Will the Attorney-General examine the possibility of introducing changes by administrative means such as taping of interviews with children who are alleged to be victims of child sexual abuse as recommended by Judge Newman in the Children's Court?

The Hon. C.J. SUMNER: With respect to the first question, I will discuss that matter with my colleague the Minister of Health, who arranged to set up this working party in the first instance, to see what progress has been made and when a report is anticipated. Regarding the second question, a number of submissions were received from interested groups following the sending out of the first draft Bill and as a result another draft is being prepared which, to some extent, differs from the first.

I have today dispatched to the honourable member the second draft Bill in accordance with his request of last week

and I welcome any submissions that he, any of his colleagues or, indeed, the Hon. Mr Gilfillan (to whom I have also dispatched a copy) might have to make on the matter before it is brought back to Parliament. I said in a statement to the press recently that submissions on the Bill are still open and obviously will be considered by the Government to see whether any further changes to the Bill are necessary before it is introduce into Parliament in August—or at least in the next session.

The power to tape children's statements by administrative means or by administrative direction may have some merit, but I not quite sure what the honourable member says ought to be the result, if after an interview of that kind has been taped, that interview is not then admissible in any court proceedings.

The Hon. K.T. Griffin: The judge suggested it should be admissible.

The Hon. C.J. SUMNER: That is all very well and it is addressed in the Bill, at least with respect to committal proceedings. The question of the videotapes being used as a substitute for direct evidence in the trial is something that the task force did not agree with. It did agree that video recordings of children's statements could be tendered as evidence at proceedings to achieve a committal. It would then be part of evidence and could then, of course, in the main trial be used by the judge to view and by the prosecution and defence in whatever way they saw fit. The recommendation was not that the video recordings be a substitute for the complainant—the child who is aggrieved—appearing and giving evidence in the court.

The Hon. K.T. Griffin: Judge Newman wasn't suggesting that.

The Hon. C.J. SUMNER: The first part is dealt with in the Bill and was one of the recommendations of the child sexual abuse task force. It seems there is not much point doing it administratively if there are still difficulties in producing the recording as part of evidence in court.

There was a debate this morning on the Philip Satchell show, conducted by Rex Leverington in the absence of Mr Satchell, in which I participated.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: Well, at least on this occasion the Hon. Mr Gilfillan did not intervene, as he usuallly does.

The Hon. I. Gilfillan: I was listening very intently.

The Hon. C.J. SUMNER: Well, the honourable member was listening. The proposition being put by one quarter was that there ought to be no compulsion on a child to appear, give evidence and be subject to cross examination. That was something with which I was not able to agree. Obviously, if anyone wants to make any submissions to that effect they can be considered, but it seems that that would be contrary to virtually every tenet of justice that has existed in this country since time immemorial, connected as it would be with the notions of innocence until proven guilty and proof beyond reasonable doubt as well as the right of a person accused to have opportunity to cross-examine those witnesses produced by the State as part of the prosecution case.

It is an incredibly difficult area, and with respect to children giving evidence the task force recommended significant changes. The Bill incorporates significant changes, not precisely in the same terms as that recommended by the task force, but probably with improved effect in terms of ensuring that children who are able to give evidence and are competent of giving evidence can give that evidence without the necessity for there being corroboration in order to achieve a conviction.

Mr Borick has objected to everything. He apparently considers any change in the law to be sending South Australia down the road of a banana republic or subjecting South Australians to a kangaroo court. I do not believe that those sorts of statements add very much to the debate. Nevertheless, that is what he said. My view is that the material sent to him is confidential, but in any event that still did not overcome (even if it was not confidential) the problem of Mr Borick making the statements critical of the Bill when his nominee on the child sexual abuse task force agreed to those recommendations.

The Hon. K.T. Griffin: What did the Law Society do?

The Hon. C.J. SUMNER: I do not know that the Law Society was specifically represented on it. In fact, Mr Borick was approached and he nominated Mr Gordon Barrett to go on it. Mr Gordon Barrett participated in the legal subcommittee, is listed in the report and, as I understand it, agreed to the recommendations which Mr Borick then, as head of the organisation, criticised as soon as he received the draft Bill. That was the principal basis for my complaint.

The Hon. K.T. Griffin: You talked about breach of confidence.

The Hon. C.J. SUMNER: Yes, and I complained about that as well.

The Hon. R.I. Lucas: Savaged him, too.

The Hon. C.J. SUMNER: Quite rightly so. I do not retract what I have said.

The Hon. R.I. Lucas: A vicious personal attack.

The Hon. C.J. SUMNER: It was a fully justified criticism of his actions in this matter.

The Hon. L.H. Davis: It was not criticism—it was vicious.

The Hon. C.J. SUMNER: The honourable member can put whatever interpretation he likes on it. The facts are that Mr Borick was approached to participate on the legal subcommittee. He nominated someone to participate on it, they so participated and contributed to the recommendations which led to the Bill and, as soon as Mr Borick got the Bill, he criticised the recommendations that his nominee, Mr Gordon Barrett, had participated in preparing.

The Hon. K.T. Griffin: And agreed with?

The Hon. C.J. SUMNER: And agreed with as far as I am aware. Furthermore, ironically, as I was re-perusing the report this morning in preparation for my radio interview, I noted under 'Acknowledgments' in the task force report the following statement:

> The task force wishes to acknowledge the contribution made by the following persons:

At the top of the list is none other than Mr Kevin Borick, President of the Criminal Lawyers Association. It is a joke to behave in the public arena in that manner.

The Hon. R.I. Lucas: There you go again, savaging him.

The Hon. C.J. SUMNER: No, I am not. I am merely putting what was said in context. All the matters the honourable member has raised have been addressed in the task force report. It is an incredibly difficult area. Emotions run high, as one would expect them to, in this area and we have on the one hand Mr Borick, who does not want any change in the law at all—He does not want the interlocutory procedure at all. Mr Barrett does not mind it, but Mr Barrett does not want it, or the changes to the evidentiary rules for children. On the other hand, we have people, such as those reported in the media yesterday and those on radio today, saying that children should be able to appear, give evidence and not be subject to cross examination.

Somewhere, Parliament—it is just not the sole responsibility of Government, but a matter of legislation—will have to address these conflicting viewpoints and come up with a proposition acceptable to the community. The task force report provides a good basis on which to proceed with the draft Bill. We are happy to receive further submissions on

it and there will then be legislation in the Budget session. I also add, however, that some recommendations in the task force do have resource implications, and they will also have to be addressed.

SAGASCO AND SAOG

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General a question about restructuring of the South Australian Gas Company.

Leave granted.

The Hon. L.H. DAVIS: We have just heard a ministerial statement from the Attorney on the in-principle agreement arrived at between the Government, the South Australian Gas Company and the South Australian Oil and Gas Corporation for the so-called merger between the South Australian Gas Company and the South Australian Oil and Gas Corporation. The statement indicates that the South Australian Gas Company shares will be split on the basis of five to one, creating a total of 12.3 million Sagasco shares. The Government will be issued with 56.2 million new Sagasco shares which will provide the South Australian Government with 82 per cent of this new merged company which, of course, is a listed company on the South Australian Stock Exchange.

It will mean that the Government will have the ability to sell shares on the Stock Exchange in the future. It will also mean that the Government may well get much more money for those shares when they are sold than the price for which it purchased them, effectively at the current time. Interestingly enough, the Minister's statement reads as follows:

> The opportunities to engage in new activities or expansion of current areas of activity will be enhanced by the ability of the new company to raise equity capital or by using its greater financial strength as a basis for joint venture activities. Either of these steps would involve a dilution of the existing shareholders' position in the company but the resulting new share would be in a considerably expanded organisation. As the major shareholder, the Government is determined to remain a substantial majority shareholder in the new company.

The shareholders of the South Australian Gas Company, the many consumers of gas and I have an interest in the proposed restructuring of the company. The Attorney-General will recollect that the proposed sale of 49 per cent of the South Australian Oil and Gas Corporation, with the Government retaining control by holding 51 per cent of shares, was viciously attacked at the last election by Prime Minister Hawke and Premier John Bannon. My questions to the Attorney-General are as follows:

1. Does this proposal contained in page 4 of his statement suggesting that the new company will be able to raise equity capital mean that the Government with an 82 per cent interest in the enlarged South Australian Gas Company will invest further funds in oil and gas exploration?

2. Does it mean that the Government intends to sell up to 49 per cent of its 82 per cent shareholding to institutions or private individuals as indicated by the statement that the Government is determined to remain a substantial majority shareholder in the new company?

3. Does the Government intend to sell shares in future and, if so, when will this privatisation by stealth take place?

4. Will the Attorney-General advise how the Government intends to sell up to 49 per cent of its 82 per cent shareholding in the restructured gas company?

5. The creation of the new, enlarged South Australian Gas Company with a Government holding of 82 per cent will create possible conflicts between gas distribution and oil and gas exploration. Will the Attorney not agree that the Liberal Party proposal floated in 1985 would have been cleaner and neater: namely, the floating off of 49 per cent of South Australian Oil and Gas Corporation into a new major oil and gas exploration company?

The PRESIDENT: Order! The last part of the question was hypothetical.

The Hon. C.J. SUMNER: That was the one that I was going to answer, Madam Chair, by saying 'No'.

The PRESIDENT: Order! It should be ruled as hypothetical.

The Hon. C.J. SUMNER: Hypothetical or not, the answer is 'No'. The statement has been made by the Premier and me outlining the in-principle agreement. Obviously more work needs to be done from here on in to resolve all of the details of the arrangement. In particular, South Australian Gas Company shareholders will have to agree to it. That issue must be dealt with by the Gas Company, making whatever recommendations it chooses to its shareholders. The shareholders must either agree or disagree with the recommendations. Furthermore, legislation will be necessary, as I outlined in my statement, and that will enable members opposite and the Parliament as a whole to make their contribution to the issue and discuss the matter in the democratic forums of this State. With respect to the issues raised by the honourable member, the principle outlined is that the Government will retain a substantial majority shareholding in the new company.

The Hon. R.I. Lucas: So you will sell shares?

The Hon. C.J. SUMNER: No, the honourable member does not seem to understand. There will be that capacity with the new company, as it will operate on the Stock Exchange in the open market. It will be possible for the company, as a commercial entity, to do the sorts of things outlined in the statement that I have given, as follows:

> ... areas of current activity will be enhanced by the ability of the new company to raise equity capital or by using its greater financial strengh as a basis for joint venture activities.

That is the rationale and, in addition, the Government is determined to remain a substantial majority shareholder in the company. The initial—

The Hon. L.H. Davis: You can get down to 51 per cent?

The Hon. C.J. SUMNER: The honourable member is toying with words. I don't think that the Government could get down—

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: No, you are not. A substantial majority shareholding is obviously more than 51 per cent. If the honourable member had crossed out the word 'substantial' and referred to a majority shareholding in the company, his interjection that it is 51 per cent may have some basis. If it is 51 per cent, that is clearly a majority shareholding. The Government intends to maintain a much larger—

The Hon. L.H. Davis: It says 'substantial'; it may be 60 per cent?

The Hon. C.J. SUMNER: That will be determined.

The Hon. L.H. Davis: You will sell off shares? You are admitting to that?

The Hon. C.J. SUMNER: I am not.

The PRESIDENT: Order! The Hon. Mr Davis has asked his question. He will listen to the answer.

The Hon. C.J. SUMNER: What the honourable member fails to understand about the matter, which I will go on to explain, is that the issues raised by him, namely, the contribution of the company to gas exploration and the manner in which equity capital may be raised, will have to be dealt with by the new company on a commercial basis in the future.

The Hon. R.I. Lucas: So they can sell them off?

The Hon. C.J. SUMNER: It is a matter of what the Government intends, with respect, and I have said quite clearly what is intended and that is that a substantial majority shareholding in the company will be retained by the Government. The Premier may well be in a position to address that matter more specifically, but I have no intention of saying that it is 82 per cent now, but next week it will be 85 per cent or 80 per cent, 75 per cent or 70 per cent. Once the merger has occurred, the Government will have an 82 per cent share in the company. The Government's policy decision is that it will remain a substantial majority shareholder in the new company.

The Hon. R.I. Lucas: So you will sell some?

The Hon. C.J. SUMNER: No, it doesn't necessarily—

The Hon. L.H. Davis: Are you categorically denying that you won't sell any?

The Hon. C.J. SUMNER: No, I am not categorically saying anything about the matter. I am telling members what the position will be if the merger proceeds. A lot of things still have to be done before that occurs, including a decision by the Sagasco shareholders and the matter coming before the Parliament. When that occurs, the Government's shareholding in the new company will be 82 per cent. For the future, the Government's commitment is that it will remain a substantial majority shareholder. I would have thought that even the honourable member would know that 'substantial majority' is different from 'majority'. Majority is 51 per cent; substantial is more than 51 per cent.

The Hon. L.H. Davis: What is it? Is it 60 per cent?

The Hon. C.J. SUMNER: The Government has not taken any final policy position on that.

Members interjecting:

The Hon. L.H. Davis: This is the worst camouflage I have ever seen.

The Hon. C.J. SUMNER: It is not a camouflage. The position is clear. We have explained the position on the merger. That is the first point. The second point is that the Government will retain a substantial majority shareholding. I would have thought that that was clear, but the honourable member wants—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —to say, is it 62.35 per cent; is it 85.6 per cent; is it 90 per cent? That is not a question that can be answered at this point in time. That will depend upon the operations of the company in the future, and I have outlined the objectives of the operation. In so far as agreement has been reached at this stage, and the Government's intention, they are clear. It is a merger. The Government has 82 per cent of the reformed company and, for the future, the Government intends to maintain a substantial majority shareholding. The precise amount of that will depend on the circumstances of the company in the future.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: A supplementary question, Madam President. Will the Attorney-General categorically deny that the Government will sell off some part of its proposed 82 per cent holding in the South Australian Gas Company?

The Hon. C.J. SUMNER: I have already answered that. The 82 per cent holding in the company may change—

The Hon. R.I. Lucas: So you could say—

The Hon. C.J. SUMNER: Just a minute—but the Government's policy position is quite clear. The Government will retain a substantial majority holding in the company.

The Hon. L.H. Davis: Just say you will sell it.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Davis and the Hon. Mr Lucas have been called to order on numerous occasions. If I have to call either of them to order again, I will have to name them.

PAYMENTS FROM WINERIES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General questions on payments from wineries.

Leave granted.

The Hon. M.J. ELLIOTT: I have been approached by a number of people from the Riverland who have been concerned by the actions of some wineries in the Riverland, in particular cooperative wineries, which have in the past been the only reason the wine industry has been able to continue there. Their concern has been a fairly straightforward one. The wineries at present are making final payments on recent vintages while some vintages going back to the late 70s or early 80s are still waiting for final payment. That means a number of people have had outstanding debts in the wineries for quite some time. Perhaps the people most affected are those who have sold their properties and who had shares in the cooperative wineries, but their shares cannot be paid out until final payment is made. Not only are they waiting for final payment but they are also waiting to receive the value of their shares. Is the Attorney aware of this occurring and what is the legal position of it?

The Hon. C.J. Sumner: Sorry, the legal position of what?

The Hon. M.J. ELLIOTT: First, is the Attorney aware that the wineries are making payments on recent vintages while older vintages still have payments outstanding? Secondly, shares cannot be paid out until those final payments are made, so some people have longstanding debts; furthermore, they have sold their business and are owed payments on the shares. It is an unsavoury practice at least. What is the legality of it?

The Hon. C.J. SUMNER: I do not know of the situation raised by the honourable member but I will seek a report and let the honourable member have a reply.

LOCAL GOVERNMENT VOTING

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Attorney-General, in the absence of the Minister of Local Government, a question on the subject of compulsory voting.

Leave granted.

The Hon. DIANA LAIDLAW: Last Friday at the launch of advertising material on the 'Have a Say' campaign, the Minister of Local Government indicated that the Government's decision to introduce compulsory voting in local government elections would depend on an assessment of the turnout of voters at next month's poll. However, it was not clear from the Minister's statement what she would find acceptable as the percentage turnout, whether it be 30 per cent, 40 per cent, 50 per cent, or possibly 80 per cent or 90 per cent. Nor was it clear what criteria would be employed by the Minister in making this assessment.

It is possible, for instance, that the assessment will be based on a comparison of the turnout next month with that of May 1985. If this is to be the case, it is important to highlight at this time, prior to the conduct of the elections, that there will be very different factors applying next month to those in May 1985. At the last election there were 628 000 eligible voters, and the turnout across the State ranged in

some instances from 80 per cent to 5 per cent, with an overall average of 31.76 per cent. At the forthcoming poll, 12 rural councils will not be staging elections since their elections have been suspended pending the outcome of amalgamation applications. In addition, some elections will be held for mayoral positions in metropolitan councils, and those councils have a very high number of eligible voters. For instance, Salisbury has about 85 000 eligible voters.

Traditionally, metropolitan councils such as Salisbury have a much lower percentage turnout of voters than rural councils, but they also have a significantly larger number of eligible voters. I highlight all those facts because there are considerable variables between the last election and the next election, and if the Minister's assessment is to be based on a comparison of the two elections—in part or in whole—it is not surprising that considerable concern is being voiced in local council elections that those variables are factors entirely beyond the control of local councils and even beyond the control of any advertising campaign with which the Minister is now associated.

Therefore, I direct these following questions to the Minister of Local Government. First, does the Minister, like the former Minister (Hon. Mr Keneally), believe that an overall turnout of 70 per cent of eligible voters is a desirable percentage in determining a satisfactory local government poll? Secondly, if not, what is the desirable overall percentage turnout? Thirdly, what are the factors that will be used in assessing the turnout of voters? Fourthly, who will be responsible for making the assessment of the poll? Is it possible that the working party that met after the last election will also be associated with making the assessment following this election?

The Hon. C.J. SUMNER: Obviously I cannot answer for the Minister. I will refer the question to her and arrange for a reply to be forwarded.

LOCAL GOVERNMENT MINIMUM RATES

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Attorney-General, in the absence of the Minister of Local Government, a question on minimum rates.

Leave granted.

The Hon. J.C. IRWIN: We have had exposed, by questions throughout this session, the Minister's changing position in relation to the minimum rate issue. We have recently been told that following extensive consultation with the Local Government Association on the minimum rate issue, which has obviously not been resolved by those consultations, the Minister has asked the South Australian Centre of Economic Studies to provide her with advice regarding alternatives to the minimum rate; namely, what effect financial schedules of the Local Government Act will have as a potential replacement of the minimum rate.

We have heard the Minister talk about the two tiers associated with the replacement of the minimum rate, namely, valuation and service charge (based on financial sections of the Act). My questions are:

1. Will the Minister make public the terms of reference of the inquiry into the minimum rate by the South Australian Centre of Economic Studies?

2. Do the options that the South Australian Centre of Economic Studies has been asked to examine include the current application of the minimum rate by local councils?

3. Did the Minister consult with the Local Government Association about the terms of reference to the South Australian Centre of Economic Studies?

4. Have officers of the Local Government Association been asked to participate in the inquiry or provide information to the South Australian Centre of Economic Studies on the minimum rate issue?

5. Will the Attorney undertake to obtain a reply to these questions and let me have it during the break?

The Hon. C.J. SUMNER: I will refer those questions to the Minister responsible and arrange for a reply to be sent.

SAGASCO AND SAOG

The Hon. R.I. LUCAS: My questions are directed to the Hon. Carolyn Pickles and concern the South Australian Oil and Gas Company and the select committee report. My questions are:

1. Does the honourable member support the announcement by the Government about the future of the South Australian Oil and Gas Company to clearly establish the framework for selling shares in SAOG?

2. If she supports that announcement, how does she rationalise that support with her views expressed in the select committee report tabled today on SAOG which opposes the sale of shares in that company?

The PRESIDENT: Order! I point out that questions in this Council can only be directed to people in their area of responsibility.

The Hon. R.I. Lucas: About which they are 'specially concerned'.

The PRESIDENT: Areas of responsibility.

The Hon. R.I. Lucas: That is not the Standing Order.

The PRESIDENT: I also point out that it is entirely at the discretion of a backbencher whether or not they wish to reply to a question.

The Hon. R.I. LUCAS: I rise on a point of order. Standing Order 107 does not mention 'responsibility'. It says:

> . . . other members, relating to any Bill, motion, or other public matter connected with the business of the Council, in which such members may be specially concerned.

There is no question of responsibility there; it is a matter about which a member may be 'specially concerned'.

The PRESIDENT: I take the point of order in relation to the wording of the Standing Order. What the Hon. Ms Pickles' personal views are on any matter is not a public matter connected with the business of the Council.

The Hon. Diana Laidlaw: As a member of the select committee that reported today?

The PRESIDENT: I was referring to the first question that the Hon. Mr Lucas asked the Hon. Ms Pickles. It did not refer in any way to her being a member of the select committee.

The Hon. R.I. Lucas: The question was about SAOG and the select committee.

The PRESIDENT: The second question was. I understand that the first question was not.

The Hon. CAROLYN PICKLES: I am amazed that the Hon. Mr Lucas is such a fast reader. The interim report of the select committee was tabled in this Council but a brief hour ago. Yet, in a very quick time, he has been able to read it, has managed to pick the eyes out of it and has come to some kind of assumption that, in fact, it is contrary to the views of the three Labor members who were on that select committee.

The Hon. M.B. Cameron: He read it twice.

The Hon. CAROLYN PICKLES: I am glad that he has managed to go through it twice. It contains some good material on which we sat and deliberated long. The Hon. Mr Lucas has obviously read the views of the three Labor

members on the committee and those views are not inconsistent with the remarks made by the Attorney-General.

QUESTIONS ON NOTICE

LAND RETICULATION

The Hon. M.J. ELLIOTT (on notice) asked the Attorney-General:

1. Have plans recently been drawn up for the reticulation of land occupied by the Waite Institute and Urrbrae High School?

2. If so, for what purpose?

The Hon. C.J. SUMNER: The replies are as follows:

1. There are no proposals for Government to reticulate this land.

2. Not applicable.

WORK BANS

The Hon. DIANA LAIDLAW (on notice) asked the Minister of Community Welfare: In relation to the statement in the *Advertiser* on 25 March by the Director-General of Community Welfare that in discussions with the PSA, DCW had raised the idea of transferring banned work to private welfare agencies:

1. Was it contemplated that all work subject to bans be transferred to private welfare agencies?

2. If not, what work was proposed to be transferred to private welfare agencies?

3. Was the Adelaide Central Mission one of the agencies being considered as appropriate for taking up work subject to bans?

4. What other agencies were being considered as appropriate?

5. Does the Minister deny claims by the Federal President of the Australian Social Welfare Union, Ms Rudland, that kits were being developed by DCW providing advice to non-government organisations on how to issue concessions?

The Hon. C.J. Sumner, for the **Hon. J.R. CORNWALL:** The replies are as follows:

1. No.

2. The issuing of concessions (transport, ETSA, E&WS, and council) was considered.

3. Yes.

4. Some very preliminary discussions had taken place with several agencies which routinely assist people in financial distress. None were followed up.

5. 'Kits' had been developed for the use of central office managers during the period of work bans. If arrangements had been made for private welfare agencies to assist clients with concessions, these 'kits' would have been used.

TRUST ACCOUNTS

The Hon. K.T. GRIFFIN (on notice) asked the Attorney-General:

1. In each of the years 1984, 1985 and 1986:

(a) How many land agents and land brokers did not lodge with the Department of Public and Consumer Affairs, the Land and Business Agents Board or the Commercial Tribunal relevant audit certificates relating to their trust accounts?

(b) In respect of trust accounts audits, how many audit reports were qualified?

(c) In respect of those agents and brokers referred to in *(a)* and *(b)*, how many had their licences under the Land and Business Agents Act renewed?

2. At the present time, how many land agents and land brokers who are licensed have not lodged the requisite audit certificates of their trust accounts or have lodged qualified audit certificates?

The Hon. C.J. SUMNER: I seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

1. *(a)* The Department of Public and Consumer Affairs has not had the resources available to provide the requested information for the years 1984 and 1985. The following information is available for 1986. The Commercial Tribunal acquired jurisdiction from the former Land Brokers Licensing Board and the Land and Business Agents Board on 10 November 1986. This information is based on records made available to the tribunal on that date.

184 brokers did not lodge audit reports by the due date. On 26 March 1986 the Acting Secretary wrote to brokers who had not lodged reports requesting them to do so within 14 days.

164 subsequently lodged audit reports or statutory declarations but before any action was taken to suspend the licences—

5 licences were suspended (in May 1986) and of these two subsequently lodged reports while they had their licences cancelled (in June 1986);

1 lodged a request for consent to surrender of the licence;

12 others have since lodged audit reports or statutory declarations;

1 had not been followed up but has now been brought to the attention of the Commissioner for Consumer Affairs;

1 has since been cancelled.

191 agents did not lodge audit reports by the due date. On 26 March 1986 the Acting Secretary of the board also wrote to agents who had not lodged audit reports requesting them to do so within 14 days.

144 subsequently lodged audit reports or statutory declarations; but before any action was taken to suspend the licences;

26 others have since lodged audit reports or statutory declarations;

17 licences were suspended (in May 1986) and of these one subsequently lodged an audit report and 16 licences were cancelled in June 1986;

4 agents may still have not lodged audit reports and these are being brought to the attention of the Commissioner for Consumer Affairs.

(b) 95 qualified audit reports were lodged by agents and 40 by brokers in 1986. All of these have been followed up by the former board or by being reported to the Commissioner for Consumer Affairs.

(c) Licences are not renewed. Once a licence is granted, a licensee holds that licence until it is cancelled, surrendered or suspended. A licensee is required to lodge by 1 March in each year an annual return and an audit report.

It is clear that these figures raise doubts about the effectiveness of the current version of the continuous licensing system introduced in 1982 and the Government is examining whether this system should be altered in some ways. The Government is considering amending the Land Agents, Brokers and Valuers Act to give the Registrar the power to suspend agents and brokers who do not file audit reports by the due date. I have written to the industry associations

expressing my extreme concern about industry non-compliance with the legislation.

2 Audit reports were due on 1 March 1987. Initial indications are that 81 agents and 39 brokers have not lodged audit reports. The Commissioner for Consumer Affairs has written to all these agents and brokers indicating that he will institute proceedings unless they lodge an audit report forthwith. These figures may need minor revision after further checks. All audit reports are in the process of being examined to determine whether they are qualified.

SELECT COMMITTEE ON ENERGY NEEDS IN SOUTH AUSTRALIA

The Hon. I. GILFILLAN: I move:

That the select committee have leave to sit during the recess and to report on the first day of next session.

Motion carried.

The Hon. C.J. SUMNER (Attorney-General): I move:

That the Hon. Diana Laidlaw be discharged from attending the select committee and that the Hon. J.C. Irwin be substituted in her place.

Motion carried.

STANDING ORDERS COMMITTEE REPORT

Adjourned debate on motion of the Attorney-General:

That the report be adopted.

(Continued from 9 April. Page 4011.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition supports the motion. It does not lead to major changes in Standing Orders; nevertheless, there are some changes that I believe are sensible. The first and important change is the change in the way in which members put questions on notice. For some time there has been concern expressed in the Council about the length of time taken out of Question Time by lengthy questions on notice. That has led from time to time to serious complaints.

The problem is that in order to get answers to questions on notice, because there is a tendency by the people providing answers to try to avoid answering some of the questions (I say that carefully, but members will know exactly what I mean), it is necessary often to devise carefully thought out and probing questions to cover every possible technique of avoidance of giving answers. This has led over the years to some members putting on notice a lengthy series of questions and it does become a pain in the neck (and I use those words carefully) listening to a rather lengthy dissertation on a question that a member wants to ask.

From now on members will place questions on notice with the Clerk and they will automatically become part of the Notice Paper for the following day. As to the answers, we will not go through the process of asking the question. This is important, because I was looking through the Notice Paper today at questions on notice and we have no indication of the date on which a question was put on notice. This will be an important addition and one which will be helpful to members: we will know the exact day on which a question was put on notice.

If a member believes that a question should have been answered, there is nothing to prevent the member, without notice, asking, 'When will the Minister answer the question I have had on notice for a considerable time?' We are not depriving members of the opportunity to follow through. I believe that we are achieving some advantage for members through that change. There are other changes that have been made, Madam President—some at your suggestion. Doubtless all members of the Standing Orders Committee found them sensible. In the case of petitions there will now be the opportunity for members to continue with the old form of presenting petitions and there will be a new form whereby, if a petition is the same as a petition previously presented by another member, the petition can be read by the Clerk and become part of the record.

Groups in the community, for various reasons, select members to whom those groups send petitions for presentation. We have members popping up all over the Chamber presenting petitions on the same subject for a purpose that I have never been able to ascertain. I imagine that members are listed in some magazines by pressure groups as presenting petitions, and that is meant to imply that in some way we support the petition that we have presented. Of course, as members know, that is absolute nonsense: we are merely performing a duty on behalf of citizens, and it does not imply support.

However, there is no doubt that this method, from time to time, has been used to try to imply that a particular idea has the support of the member concerned. From now on, such a move will not carry any weight, because petitions will be presented once and from then on petitions can be handed to the Clerk, who will indicate that the petitions have been received. We have provided a let-out for a member who, on behalf of a community group, wishes to present the petition personally in the old form. That will still be possible.

The Hon. C.M. Hill: That is a good move.

The Hon. M.B. CAMERON: Yes. If a member really supports something, the member has the opportunity of going back to the old form. I strongly support that move.

The Hon. C.M. Hill: Sometimes some of the signatories are in the gallery. They like to see the member presenting their petition.

The Hon. M.B. CAMERON: Yes, that is important. That is the whole concept of petitions, and I believe it should be retained. I have been concerned for some time at the distribution of petitions for purposes other than the purposes for which they were intended. There is also an amendment to Standing Order 283, which is to read as follows:

Upon a Bill being presented by a member or received in due order from the House of Assembly for the concurrence of the Legislative Council, the Bill shall be read a first time without any question being put.

That is a fairly sensible change, because in my time there has never been a position where a Bill has been rejected at that stage or where the motion to have a Bill read a first time has been rejected. I doubt that it has ever been done. That is a sensible change to Standing Orders. Other amendments deal with matters being put on motion. There is an amendment to remove the absolute requirement for the President to leave the Chair forthwith after the second reading of a Bill and to enable the Committee stage of a Bill to be postponed for a future sitting. That is to try to relieve the possibility of your claiming workers compensation, Madam President, if you stumble going up and down the steps (and I use those words advisedly) in order to put—

The PRESIDENT: Order!

The Hon. M.B. CAMERON: I withdraw the word 'stumble'. It is an unnecessary procedure for you, Madam President, to have to go very nimbly down the steps to enable the Committee stage of a Bill to be postponed to a future sitting. The Council must go into Committee and then come

out of Committee, even though we are not considering the Committee stage at that time.

That could be done through the normal process of the Council. The members of the Standing Orders Committee were unanimous in thin support of these amendments. Concern was expressed about some areas, and in general those changes were accommodated. As is usually the case (or as has certainly been the case in my time in this Council), the members of the Standing Orders Committee arrived at unanimous conclusions, and I trust that that is the way it will always be, because the Standing Orders are a very important part of the Council—

The Hon. C.J. Sumner: Are you filibustering?

The Hon. M.B. CAMERON: Not at all. I am putting a point of view. Is the Attorney trying to stop me? I am surprised at the Attorney. I was putting the view that the Standing Orders Committee should arrive at a unanimous conclusion if at all possible, because we all have to opertate under the Standing Orders, and it is important that we support them. I trust that we never get to the stage where we do not have that support for our Standing Orders, as they are the forms of the Council and a very necessary part of the procedures of the Council. We support the amendments.

The Hon. K.T. GRIFFIN: The ambit of the amendments proposed to the Standing Orders have been canvassed by the Attorney and the Hon. Mr Cameron. I do not want to repeat that. However, I want to say two things. First, although these amendments will remove some of what might now be regarded as unnecessary procedures, nevertheless other procedures of the Council, as these have been in the past, ought to be amended with considerable caution. Although certain procedures may be regarded by some to be tedious and unnecessary, it is important for the administration of the Council that the Council not be seen to be merely a rubber stamp either for the Assembly (and that can rarely be asserted now) or the executive. Therefore, those procedures should be amended only with considerable caution and after a great deal of deliberation. I am satisfied that these amendments are appropriate and do not affect the way in which the Council goes about ensuring that it acts independently of the House of Assembly and the executive arm of government.

The second point is more procedural, and that is that, with the amendments to the Standing Orders that His Excellency the Governor has already approved and if these amendments are approved, it would be appropriate for certain administrative steps to be taken to ensure that at least an insertion to our current Standing Orders becomes available so that as far as members are concerned they are up to date. I am not suggesting a reprint, which would be inordinately expensive, but I think that an appropriate reprinting of amendments to the Standing Orders should be inserted. I support the motion.

Motion carried.

The Hon. C.J. SUMNER: I move:

That the report be printed and the amendments presented to the Governor by the President for approval pursuant to section 55 of the Constitution Act.

Motion carried.

CARRICK HILL

Adjourned debate on motion of the Attorney-General:

That the resolution contained in message No. 187 from the House of Assembly be agreed to.

(Continued from 9 April. Page 4068.)

The Hon. L.H. DAVIS: When I was last discussing this matter early on Friday morning I had made the point that the establishment of a select committee would be the fairest way of examining this very important matter. The establishment of a select committee will be a victory for commonsense, and I believe in the best interests of the future of Carrick Hill, the magnificant bequest of the late Sir Edward and Lady Ursula Hayward. The select committee will be able to recognise the concern of the Carrick Hill Trust, which is anxious to develop the sculpture park in accordance with the wishes of the Haywards. It will also be able to take evidence from people who are concerned about the sale of a small portion of land to raise funds for that sculpture park, and that concern is from two quarters. Firstly, the executor and trustees of the wills of the late Sir Edward and Lady Ursula Hayward believe that the intention and direction of the will may be varied by the sale of the land. Secondly, concern has been expressed by residents of properties adjacent to the proposed development which, of course, provides for eight building blocks.

In the past few days there has been continued public interest in this matter. That is not surprising in view of the size of the Carrick Hill bequest and also the important principle at stake. Nevertheless, it is also not surprising that perhaps some of the views expressed by members of the public have been less than informed. For instance, there has been some hostility to the proposal that a sculpture park should be established at Carrick Hill. That is unfortunate but perhaps understandable because sculpture is not everyone's cup of tea. But nevertheless there is the very real opportunity at Carrick Hill to establish the first international scale sculpture park in Australia. It was an expressed wish of the Haywards, and quite properly members of the Carrick Hill Trust are anxious to give effect to that very strong wish of the benefactors.

Also, controversy has surrounded the question whether, if people leave land in their will or by way of gift to the State, their intentions can subsequently be varied. There is an argument of morality which has to be balanced with the legal position, namely, that section 13 (5) of the Carrick Hill Trust Act does give the power to sell land and also personal property vested with the Carrick Hill Trust, subject to the approval of both Houses of Parliament. It was perhaps surprising that there was not more debate on that matter when Parliament passed the Carrick Hill Trust Bill in early 1985.

So, that is the case for a select committee. It is a strong, reasoned case which resists the pressure of the moment, forcing the Parliament to act quickly, perhaps with indecent haste. Within a matter of five days the House of Assembly was required to make a judgment on this matter. Because the House of Assembly has already approved the resolution, it is now for the Legislative Council to reflect on its decision on this important matter. The Liberal Party is committed to a select committee. We hope that the Government sees the reasonable viewpoint expressed by the Opposition in this matter as an opportunity for a bipartisan approach to the issue now at hand. That bipartisan approach, after all, would continue the bipartisan spirit that has existed for almost two decades in the matter of Carrick Hill. I move:

That the motion be amended by deleting the words 'be agreed to' and inserting in lieu thereof 'be referred to a select committee'.

The Hon. I. GILFILLAN: I will read some extracts from some quotes from the media and *Hansard* in relation to this proposed sale of Carrick Hill. A response was printed in the *Advertiser* from the Premier on 7 April, as follows:

The South Australian Government could close Carrick Hill if plans to allow the sale of 2.7 hectares of the historic property are defeated by Parliament.

The Premier, Mr Bannon, said last night that, if the Carrick Hill Trust could not sell the land to raise money for development, the property might have to restrict its opening hours or be closed.

Unless it could be further developed with new art works, it would not remain a viable tourist attraction, the Premier added.

That must have sown some seeds of alarm in the minds of the leader writers of the *Advertiser* because the editorial of 11 April, under a heading 'Securing Carrick Hill', states:

If the people of South Australia had a choice between the interesting old house and gardens of Carrick Hill being closed to them and selling off a small proportion of the land on one side of the property, it is almost certain that they would opt for the land sale.

Further, the same editorial states, in talking of Carrick Hill:

But such large properties require expensive maintenance and security to retain their value and accessibility to the public, and it is not surprising that, in these times, the Government is as pushed for funds as the owners of stately homes are in other countries to do that job well.

It is therefore interesting to read an article that appeared in the *Advertiser* this morning from David Dridan on the editorial page about the Hayward vision for Carrick Hill, the first paragraph of which states:

It was the unanimous decision of the Carrick Hill Trust to approach the Premier and Minister of Arts and ask him if the Government would be prepared to consider a small subdivision and sale of about 2.4 hectares of land and the proceeds or capital to be invested in a Carrick Hill Trust and the interest only to be used for the acquisition of sculpture to display in the Carrick Hill sculpture garden. This was the vision of one of the generous benefactors, Sir Edward Hayward.

Further on the article states:

Before considering the sale of land the trust requested from the Premier an acquisition fund. This has not been forthcoming and the Premier has been honest and one must respect him for that, for the money is just not there. I feel sure the Premier would love to say to the trust: 'Here's $200 000 to purchase works of art for the sculpture garden.'

The article further states:

I can say with certainty that the executors of the estate of the late Sir Edward Hayward are anxious that the sculpture park be established. I thoroughly respect their attitude in regard to the land being not sold. My personal and first wish would be the same.

I am highlighting what appears to be quite an extraordinary conflict in statement and intention. The Premier has promoted the idea that, unless this piece of land is sold, the viability and continuing availability of Carrick Hill to the public is very seriously at risk, and he says quite specifically that it could be closed.

However, that falls foul of the statements and opinions of the trust. I have spoken with two members of the trust, David Dridan and Dr Christopher Lawry, who made clear to me that the intention of the trust was purely to purchase sculpture for the sculpture park. They stridently reaffirmed that there was no intention for the proceeds of that sale to go into general upkeep or any other form of funding for Carrick Hill but that it was purely for the acquisition of sculpture.

I do not believe for a moment that anybody thinks that the viability of Carrick Hill depends on whether $50 000 worth of sculpture is bought each year for the sculpture park. That is a nonsensical argument, but it is disturbing that the Premier is taking the argument to the lengths of saying that this land must be sold in order to keep Carrick Hill going. In my opinion that is diametrically opposed to the request and intention of the trustees. Of course, it emphasises the embarrassment that the trustees and, I hope, the Government must feel that there should be any intention of selling land from the Carrick Hill estate at all.

The Hon. Jenny Cashmore in another place has gone to some lengths in speaking to this matter to point out the very sincere doubt of the ethical position of selling land from the Hayward estate. She referred to two letters, copies of which I have—one from Mr D.J. Bridges, acting as executor of the estate of Sir Edward Hayward and another from Mr N.A. Trenerry, acting as trustee for the estate of the late Lady Ursula Hayward. These letters make abundantly clear that as trustees they have no doubt that the benefactors were not giving permission for part of the estate to be sold. I quote from the letter of Mr Trenerry to Mr Bannon dated 6 April 1987, as follows:

It is the writer's clear recollection that the intention of all parties was that the gift to the State would be made if and only if the State agreed to hold and maintain the whole of the property for one or more of the purposes set out in those documents.

We believe that intention is made clear by the documents themselves. In particular we draw your attention to the fact that in contemplating the possible gift over to the National Trust that donee was to be given a specific power to subdivide and sell a portion of the land to provide funds to maintain the balance. No such power was included for the State because no such power was intended.

The letter from Mr Bridges to Mr Bannon states:

Whilst it is clear that it was intended that the Government could sell or deal with the chattels, there was no express power in the will for the Government to sell any of the real estate. In contrast there was a clear power given to the National Trust of South Australia to sell the real estate if the Government did not accept the bequest subject to the terms of the will.

It continues:

It is clear that it was intended by Sir Edward Hayward that the real estate in Carrick Hill be maintained in its entirety. In the light of this information, I request that you advise me as to a matter of urgency whether the Government intends to proceed with its stated intention of proposing a resolution to Parliament to sell portion of the real estate of Carrick Hill.

Quite obviously, the Government does. Most members will realise the devastation that this sort of contradiction of the intention of the will may have on future benefactors to the State. What makes it ironic is that the need for the sale is not in any way established, in my mind, and most people who are critical of this measure do not believe the argument that the million dollars which would allegedly be the net proceeds of the sale is the be all and end all of the continuing viability of Carrick Hill. It is a relatively piffling amount compared with the devastation of the confidence of people who may be contemplating leaving bequests to the State. The trustees are doing a splendid job and they deserve praise. In fact, the Premier, in moving this motion, acknowledged that they have been working well to acquire funds for the augmenting of Carrick Hill estate and its art works. He said:

By seeking support through gifts and sponsorship, the trust hopes that it will be able, in time, to extend its acquisitions to include works by sculptors of significance from other countries . . . The trust has also embarked on a comprehensive sponsorship program and has generated income from functions held on the property.

It is obvious that the trust already has active steps in place for raising revenue, and that will continue. It is realistic to expect that, with this publicity, the State may well acquire other bequests from benefactors to purchase sculptures and other things.

I will quote from the comments of the Hon. Jennifer Cashmore, because her speech in another place was a substantial analysis of the situation and she drew some effective conclusions. She said:

It is important that we do not underestimate the power of example and the power of precedent in a matter such as this.

She was reflecting on the effect that a sale of an asset left to the State would have on future intentions. She continued:

It is stretching the truth, to put it very lightly, for the Premier to say that Carrick Hill might be forced to close down if the Government cannot sell the land.

I have great respect for the Hon. Jennifer Cashmore's opinion and conclusions on this issue.

I hope that I am developing my point for members to recognise that incalculable damage is likely to result from this sale. Indeed, the sale itself has been misrepresented. It is often described as a slither of land and the map, which is apparent to members at the back of the Chamber, shows that, as it is drawn out, it does look to be a slither. What is not so clearly portrayed is that it is an integral part of and is embraced in the whole 39 hectares of the estate. A large portion of Hills Face Zone which is part of the Carrick Hill estate is immediately adjacent to this area. I recommend to members that, before they vote on this issue, they look a little more closely at that map.

The Hon. L.H. Davis: This is precisely why we are moving for a select committee.

The Hon. I. GILFILLAN: Well, they can trot down the back and see.

The Hon. L.H. Davis: I have been there.

The Hon. I. GILFILLAN: So have I. I point out to members that, although this land is described as 'cut off from' and 'a slither', it is an integral part which intrudes past Oakdene Road quite substantially into the main lines of the Carrick Hill estate. Although that is bad enough, the point that has been completely overlooked is that that area which is being sold off blends naturally with the Hills Face Zone and that zone is one of the very valuable parts of the Carrick Hill estate. The Premier recognised in the correspondence that it is not only the formal gardens and the house that can be enjoyed. There is also passive recreation and the trustees have plans well advanced to develop the area at the back of the Hills Face Zone so that it can be enjoyed by the general public.

In my opinion, this resolution will mean the selling of as priceless a part of the estate as some of the actual works of art. It is irreplaceable. Once it has gone, it will be gone forever. It is clear that there are no grounds for a select committee as moved in the amendment. There are certainly grounds for very vigorous opposition to the resolution, which seeks consent for the sale. The Democrats are strongly opposed to the sale of the land and fail to see that there are any grounds for engaging a select committee to look at what we consider to be a very simple open-and-shut case. In the terms in which it was presented and in its options to the National Executive, the will implied as emphatically as it could that the land was not to be subdivided. Any sale would fly in the face of that. The amount of money that is to be acquired from the sale is not adequate to make the difference between viability or non-viability of Carrick Hill.

In addition, there is the extraordinary anomaly that the trustees and the Premier are saying different things. The trustees do not want the money to assist in the running costs to keep Carrick Hill available to the public. They want it specifically to buy sculpture. The value of the land itself as an integral part of the estate cannot be denied and it is a misrepresentation to describe it as a slither of land alienated from Carrick Hill. That is propaganda, and it should be completely disregarded. The Democrats oppose the sale and any move to establish a select committee.

The Hon. J.C. IRWIN: My contribution to the debate will be brief and I hope very much to the point. I have great respect for the responsible attitude shown by the Hon. Mr Davis when making his contribution to the debate on two sitting days. When I first heard of the proposition to sell some part of Carrick Hill land I had the impression that it was a move initiated by Mr Bannon as Premier and Minister for the Arts. I now accept that the impresssion that I had then was in one sense wrong, and I will come back to that later. It was a move on advice from the Carrick Hill Trust. The question I raise is, how much was the trust squeezed into making its decision by what the Premier said to it? My first impression was negative, and, after that explanation, I was still negative. A select committee will have to convince me that there is some justification in selling the land.

I reflected on the same advice that I received from the Chairman and Deputy Chairman of the Carrick Hill Trust some time ago, two people I have known for a very long time, whose ability is beyond question, and of a quality for which I have the very highest regard. The article of the Deputy Chairman of the trust, (Mr David Dridan), which appeared in this morning's *Advertiser*, is an indication of the calibre of the people on the trust. The Hon. Mr Gilfillan referred to it, and it gives a very humane and touching insight into what Mr Dridan sees as his responsibility as a trustee, his dedication to this matter and his long association with the Hayward family. A letter to the Editor in today's paper gives further insight into what some members of the public think of the sculpture already in the park. The question is: what sort of sculpture will go on bringing the public and tourists to that part of Carrick Hill?

I concede in that the trust has to decide in the long run what is given as a justification that the park must be built up for a tourist attraction, because the residents of South Australia are likely only to go to Carrick Hill once in a lifetime or maybe twice, because the static display, as brilliant as it is, does not always get people to come back again and again. A tourist may only go once. If we can attract them back by the calibre of the sculptures and the sculpture park, that is a matter on which the trust will have to decide.

When I mentioned before that I was negative to this first impression from what I had read in the paper, I do not accept the blackmail tactics of the Premier as reported in the *Advertiser* of 7 April. This again was alluded to by the Hon. Ian Gilfillan. The article was headed 'Carrick Hill may shut if Government can't sell land', and it states:

The Premier, Mr Bannon, said last night that, if the Carrick Hill Trust could not sell the land to raise money for development, the property might have to restrict its opening hours or be closed.

The Hon. C.J. Sumner: How much is it for anybody to visit there?

The Hon. J.C. IRWIN: I am not familiar with that.

The Hon. C.J. Sumner: It costs $30.

The Hon. J.C. IRWIN: If I remember correctly, the trust was initially accepted by a Labor Government back in the mid to late 70s—

The Hon. Diana Laidlaw: The early 70s.

The Hon. J.C. IRWIN: The early 70s, and I will come to some explanation on that later. That is what the Premier said. It is in that article of 7 April. He then said, 'The Haywards would not have been anticipating a situation where constraints on Government expenditure were such that we could not do justice to the property.' These statements in the press set the scene for the public and I have no doubt that they were said to the Carrick Hill Trust. That is why we hear now that the trust came to the Premier with the unanimous decision that selling the land is the only way to go. If we have all to tighten our belts, and we have been saying this on this side of the Council for some considerable time now, and the Premier is now saying this, then we should heed that advice and the Premier should heed his own advice. Tightening the belt does not mean going off in another direction. I have reflected on some advice I have received from Mr Dridan and the Chairman of the trust,

and I thought the whole proposition should in fact lay on the table or not be discussed for some time until Parliament resumed in August. This would give time for public scrutiny and some discussion of the whole matter. There has been some discussion already and I have no doubt there will be more.

As the debate hots up, so to speak, I find that the Premier received his advice as long ago as six months. I guess other facts like this might be made known over time and perhaps the select committee will be able to look at that and go into those sorts of things. I have to question—and we should all question—why this measure was introduced close to the last day of this session. We are certainly debating it now on the last day and it was introduced only a couple of days ago, but it is on the last day of session that we will be asked to make some sort of decision.

It has been brought in in an attempt to push it through with everyone tired and cranky after long, late night sittings. Then we have the long winter break when public attention and questioning through the Parliament is not available. I do not like that process: neither should anyone else who is here representing the public. The lambs on the Government's side just follow along meekly behind their leader. The result of the Assembly debate supporting the Premier, with very strong support from Government members, is evidence of following the leader. They show by their actions that they do not give a damn about proper process; they do not give a damn about principles or the principle involved in this debate. If there is any easy way out, they will take it. We are seeing this increasingly from Labor Governments here.

Let not the Government wheel out its tired old argument about the need for Government cutbacks in expenditure and how the Opposition is always asking for Government funding. There must be cutbacks in Government spending and we have always supported that strongly. It is within the framework of Government cutbacks that we differ so markedly. It is how and where we make those cutbacks that we differ so much.

This debate does not allow me, I realise, to range far and wide on financial matters, and I will not. However, it does allow me to refer by example to the sorts of priority that this Government gives to its projects. The Hon. Jennifer Cashmore in another place referred to many factors, but I will only mention the recent purchase by the Government of a couple of hotels, and whatever priority that has does not show anything in this time of constraint when we are supposed to be tightening the belt.

The Hon. C.J. Sumner: It saves money.

The Hon. J.C. IRWIN: Well, it does not save money if a Government department is already set up training waiters. If you want babyminding centres, you can find somewhere else for them. We have the extravagant overruns in the ASER development caused by union muscle and the additions made to the original proposition passed by Parliament. There was the enormous—

The PRESIDENT: Order! I think we are debating a motion on Carrick Hill, not overruns on ASER. You yourself drew attention to the fact that we should not mention things that are irrelevant. I think perhaps you should take your own advice.

The Hon. J.C. IRWIN: Thank you for that advice, Madam President. I only mention that because those enormous overruns could well be used for many other aspects, and this Carrick Hill Trust is one of them. I will very quickly mention the Adelaide Swimming Centre where two to three times the original money passed by this Parliament was spent in its redevelopment. That money could have gone to other projects which have some priority. The Government has said that times were good then and as far as the Haywards were concerned, when it took over this trust, that it was all money and no heart. Now it says it is all heart and no money.

The Opposition was trying to make the Government aware of hard times ahead two or three years ago, but the State and Federal Governments have taken little notice of that. We may, with a bit of luck, see some evidence of coming to heel on this matter when the Federal Treasurer brings down his mini budget in May. Federal and State Governments go on making nonsensical decisions. They baffle us: they baffle their own backbenchers and their grass root support.

I stand by my interpretation of the principles and do not support this trust being able to sell any of its property unless the select committee can convince me otherwise. I have heard all the arguments before. I am hearing them all again now and I have no doubt I will hear them over and over again in this place. I have seen so many of my friends do this with their properties as farmers, and I only have to mention Padthaway Homestead which was once one of the biggest properties in the South-East. It was eventually reduced to a homestead with about 10 acres around it. That is what can happen when the wrong step is taken at the beginning.

The principle still remains. The property was given to the State *in toto*. I expressed the same principle in the parklands debate that we had in this place some weeks ago. While I am a de facto trustee—and the Hon. Jennifer Cashmore says that we are more than de facto, we are super trustees to these estates—I am not inclined to break my basic principle, nor importantly the spirit of the wills made by the benefactors, unless that select committee can convince me well and truly otherwise. It cannot be an impossible task to raise $1.5 million by other means to fund the sculpture park. I have financially supported a fund raising effort by the Art Gallery of South Australia which seems to have been very successful in raising an enormous amount of money through public support in that area.

I support the Hon. Mr Davis's amendment to the motion in relation to setting up a select committee. It is better than my first intention, which was that this matter lie on the table. If the amendment is carried we will, at least, look at some of the facts and figures that may or may not be public, and help get to the root of the question. I am happy to let my principles, and what I believe is the basic principle in this matter, be tested by participation in a select committee and what it may come up with.

The Hon. C.J. SUMNER (Attorney-General): The Hon. Mr Davis has made a number of comments and the substantial proposal that there ought to be a select committee. The Government is prepared to agree to that. That select committee is to be made up of three members from this side of the Chamber and three members from the other side of the Chamber; this is in accordance with the usual practice in respect to select committees of the Legislative Council. That will enable the issues to be dealt with.

However, I found the Hon. Mr Irwin's contribution very disappointing. He seems to be completely incapable of coming to grips with any of the issues that have to be dealt with in this Parliament. Once again, he shows the complete inability of the Opposition to understand that one cannot go on calling for Government expenditure day in and day out and, at the same time, go on calling for reductions in Government expenditure. You cannot go along and pick out your pet little projects wherever it suits you (as an Opposition) and support the Government finding funds and

allocating expenditure to those pet projects; yet you then come in here and in the broad sweep you condemn the Government for not reducing Government expenditure.

The honourable member will, no doubt, have considered the propositions from Sir Joh Bjelke-Petersen's new National Party and from Mr Howard on the question of Government expenditure. He will, no doubt, know that they are bidding with each other at the present time—that is, his side of politics—to see who can reduce Federal Government spending by the greater extent and that will mean a corresponding reduction to the States.

They are on the bid. That is what the Hon. Mr Irwin's political colleagues wish to do. All I am saying in response to the honourable member is a general point: he cannot have it both ways. He cannot argue as his colleagues do for a four, five, six or eight—and I am not sure what it is; it depends on who one talks to over there—billion dollar reduction in Federal Government expenditure and, at the same time, come into this Council (as he does and as he has just done) and pick out little pet projects which he says the Government has an absolute obligation to undertake, irrespective of the economic circumstances of the time.

Carrick Hill was a very generous bequest to the State, but the State must now maintain it. Anyone who has had any dealings with or knowledge of stately homes will realise the difficulties inherent in maintaining them. The honourable member may be interested in going to the United Kingdom. No doubt he will find what many people in the United Kingdom have had to do in order to maintain their stately homes. They have had to get involved in a whole lot of areas—selling off and other activities—

The Hon. C.M. Hill interjecting:

The Hon. C.J. SUMNER: Well, I am not going into that particular issue.

The Hon. C.M. Hill: Death duties.

The Hon. C.J. SUMNER: I do not think that the honourable member has it right. The point I am making is that these homes—and in so far as one can consider Carrick Hill to be a stately home in that category—are very expensive to maintain. In another place the Premier quoted the figures for every visitor to Carrick Hill. The general taxpayer subsidises every visitor to Carrick Hill at the present time to the extent of some $30 or $40. Furthermore, one then has to say that, if Carrick Hill is to be a successful tourist venture in the sense of attracting people to South Australia and in the sense of promoting it as part of our tourist package, one has to have something significant to show people.

Indeed, as far as the local populace is concerned, one has to have something that changes in the place from time to time so that one encourages people to come to Carrick Hill and participate in it. Of course, part of the development of the place is the proposal for the sculpture park which I know the trust has indicated it is keen to pursue. One is faced with the situation of having a static organisation, of no development and it being a significant drain on the budget, or one has the possibility of getting some money, which can be invested and used to develop Carrick Hill and, in particular, the sculpture park. I therefore reject the propositions put forward by the Hon. Mr Irwin.

However, the suggestion of the Hon. Mr Davis for a select committee is reasonable. The Government believes that the conflicting points of view that have been put in the public debate about this issue can now be put before a select committee of this Council and, hopefully, the matter can be resolved in a satisfactory manner.

Amendment carried.

The Council divided on the motion as amended:

Ayes (15)—The Hons G.L. Bruce, M.B. Cameron, T. Crothers, L.H. Davis, Peter Dunn, M.S. Feleppa, K.T. Griffin, C.M. Hill, J.C. Irwin, Diana Laidlaw, R.I. Lucas, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), and G. Weatherill.

Noes (2)—The Hons M.J. Elliott and I. Gilfillan (teller).

Majority of 13 for the Ayes.

Motion as amended thus carried.

The Hon. L.H. DAVIS: I move:

That the select committee consist of the Hons L.H. Davis, K.T. Griffin, J.C. Irwin, Anne Levy, Carolyn Pickles, and T.G. Roberts.

The Hon. C.M. HILL: Not with any disrespect toward you, Madam President, but I query whether Standing Orders permit the President to sit on such a select committee.

The PRESIDENT: Standing Orders do not prevent the President from sitting on any select committee. Standing Orders merely say that the President cannot be made to sit on a select committee—unlike the rest of the members of the Council who can be forced to sit on a select committee, even if they do not wish to. I am very happy to accept nomination to this select committee.

Motion carried.

The Hon. L.H. DAVIS: I move:

That the quorum of members necessary to be present at all meetings of the select committee be fixed at four members; that Standing Order 389 be so far suspended as to enable the Chairperson of the select committee to have a deliberative vote only; that the Council permit the select committee to authorise the disclosure or publication as it thinks fit of any evidence presented to it prior to such evidence being reported to the Council; and that the select committee have power to send for persons, papers and records, to adjourn from place to place, to sit during the recess and report on the first day of next session.

Motion carried.

STATUTES AMENDMENT (TRADE PRACTICES AND FAIR TRADING) BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1. Clause 1, page 1, lines 15 to 16—Leave out 'Trade Practices and'.

No. 2. Clause 6, page 3, after line 36—Insert the following:

(3) A person is not required to answer a question or to produce a book or document if the answer or the production of the book or document would result in or tend towards self-incrimination.

No. 3. Clause 6, page 4, line 14—After 'time' insert 'and must, on request, furnish to that person a copy of the book or document certified as a true copy by the Commissioner'.

No. 4. Clause 6, page 4, after line 14—Insert new subsection as follows:

(2a) In any proceedings an apparently genuine copy of any book or document, taken by an authorised officer pursuant to this Act, certified by the Commissioner to be a true copy of the original is proof of the existence of the original and its contents.

The Hon. C.J. SUMNER: I move:

That the House of Assembly's amendments be agreed to.

These amendments are consequential on the Fair Trading Bill that was the subject of a report from the conference of managers earlier today.

The Hon. K.T. GRIFFIN: I am prepared to support the proposition. I make the point in passing with respect to the protection against self-incrimination that it is interesting to note that the Government in another place has now reinserted that protection, arguing earlier in this Council that it was not necessary. I would have thought that some further consideration could be given to the formal recognition of legal professional privilege which is not so far as I am aware protected by the statute anywhere. I point to the fact, as I indicated in previous debates, that there has been consul-

tation between the Federal Commissioner of Taxation and the Law Council of Australia to achieve a working understanding of what protection might be allowed in relation to the administration of the various taxing statutes at Federal level.

That suggests that there was a need to clarify the position and to ensure that the statute law did not override the common law. I am disappointed that the Government did not finally recognise the question of legal professional privilege. The only other point I want to make is that under amendment No. 4 there is an evidentiary provision inserted. I had contemplated debating it and even moving an alternative but, on rereading it, it seems that all that that proposed amendment does is to deal with the existence of an original, rather than being taken absolutely as the evidence of what appears in the genuine copy. There may be some debate about it. I would have thought that a reverse onus provision might be more appropriate. Notwithstanding that, in view of the matters that have been agreed within the Committee on this issue, I am not prepared to take the matter further at this stage. I hope that over a period of time the operation of that amendment might be subject to scrutiny by the Attorney and those who administer that part of the law.

Motion carried.

STATUTES AMENDMENT (CONSUMER CREDIT AND TRANSACTIONS) BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

CRIMINAL LAW (ENFORCEMENT OF FINES) BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

PITJANTJATJARA LAND RIGHTS ACT AMENDMENT BILL

In Committee.

(Continued from 9 April. Page 4048.)

Clause 10—'Certain payments or other consideration to Anangu Pitjantjatjara must represent fair compensation.'

The Hon. M.B. CAMERON: The House of Assembly carried an amendment to institute a Pitjantjatjara Lands Parliamentary Committee, and that was a very sensible amendment. I indicated the other day that the Maralinga Lands Parliamentary Committee has worked extremely well. It really means that members on both sides of the Parliament in the other place go into the lands and ascertain and discuss problems faced by those people. That has led to worthwhile changes in the lands and has taken out some of the element of politics or political attitude that tended to occur in the past if members on either side attended on their own. That has been a difficulty. This action has also ensured, in the case of the Maralinga lands, that both the Minister and the shadow Minister have visited the lands together, and that has led to some worthwhile discussions of attitudes with the people concerned.

In the case of the Pitjantjatjara Lands Parliamentary Committee, an excellent group of people operate the Pitjantjatjara lands and they are not disinterested, by any means. I believe that they will certainly benefit from discussions with members of Parliament and, on the other hand, members from both sides of Parliament will benefit from the discussions and the interest generated by their being members of the committee and visiting the lands. The amendments made to the Bill in the Lower House are extremely worthwhile.

Clause passed.

Clause 11—'Insertion of new ss. 42a and 42b.'

The Hon. M.B. CAMERON: Dramatic changes have been made to this clause as a result of the select committee of the Lower House and, as I indicated in my second reading speech, those changes were necessary in order that the Pitjantjatjara Council, for the first time, can take some responsibility for its own lands. The most important change was that the Anangu Pitjantjatjara may make by-laws for the following purposes:

(a) regulating, restricting or prohibiting the consumption, possession, sale or supply of alcoholic liquor on the lands;

(b) prohibiting the inhalation or consumption of any regulated substance on the lands and prohibiting the possession, sale or supply of any regulated substance on the lands for the purpose of inhalation or consumption;

(c) providing for the confiscation . . . of alcoholic liquor or any regulated substance to which the suspected contravention relates;

(d) providing for the treatment or rehabilitation . . . of any person affected by the misuse of alcoholic liquor . . .;

(e) prohibiting specified forms of gambling on the lands;

(f) providing for any other matter that is prescribed by the regulations as a matter in relation to which by-laws may be made.

That is very important, because it gives the Aborigines the opportunity of making their own by-laws and hence making their own decisions about the best treatment for these matters. The first and most important is, of course, alcohol, because in the past that has been a serious problem indeed. I believe that the people themselves will react better to these laws if they know that they have been decided by their own people.

Secondly, it is very important that the police who have been appointed to the communities have some legislative power in order to enforce where they have no legal backup at present. That has been concerning them, but now they will have legal backup. They will be able to send to what are called the homelands young Aborigines for treatment, and that will be provided for under the by-laws. Also under the by-laws they will be able to prevent petrol sniffing. More importantly, the Aborigines will be covered by regulations until the by-laws come into effect. I understand that when the by-laws come into effect the regulations will become redundant: the by-laws will take over.

This is a huge step forward for Aborigines, and I am quite certain that they are perfectly capable of taking responsibility for these matters and that, through this measure, they will perhaps give more credence to the regulations which, once these by-laws are in effect, will take the form of by-laws. I trust that that assists them to overcome what are and have been very serious problems. No-one who has visited that area in the past and seen the effect of excess alcohol consumption or, in the case of young people, petrol sniffing would not have been horrified by the end results. To this stage the police aides who have been appointed have done an excellent job, I am informed (although I have not been to the area recently), of preventing petrol sniffing.

I trust that that is a long-term cure and that the people themselves will now feel responsibility, with perhaps greater success made in relation to petrol sniffing. A further element has to be attached, namely, something has to be done about overcoming the basic problem—sheer boredom. I understand that the Aborigines are looking specifically at the matter. It is a difficult area of the country in which to live and it is difficult to provide alternative occupations for the people, but I have no doubt that that will occur. It is with

some pleasure that we support the amendments moved as a result of initiatives by the Opposition on the select committee in the other place and trust that those matters will now become a useful weapon in the fight against the excessive alcohol consumption and petrol sniffing in the Pitjantjatjara lands.

Clause passed.

Remaining clauses (12 and 13) and title passed.

Bill read a third time and passed.

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT (STATUTE LAW REVISION) BILL

In Committee.

(Continued from 9 April. Page 4048.)

Clauses 2 and 3 passed.

Schedule.

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

Page 5, proposed new section 15 (3) *(a)*—
After 'may' insert 'be made personally or'.
After 'former employee', insert 'may'.

Section 15 of the principal Act deals with the jurisdiction of the Industrial Court and section 15 (3) deals with who may make a claim. Under the present section 15 (2) 'a claim may be made on behalf of an employee or former employee by a registered association but nothing in this section shall be construed so as to prevent a claim under this section being made otherwise than by a registered association'.

The Bill seeks to provide that a claim or application may, where the claimant is an employee or former employee, be made on behalf of the claimant by a registered association and deals with certain other matters. I want to ensure that a claim may continue to be made personally as well as by a registered association. That is probably the position with the drafting, but the concern I have with every statute revision Bill is that any changes in drafting from that which has applied for a long time might be the subject of comment in any court seeking to construe any new provision.

No doubt exists in my view that the fact that there is presently in section 15 a reference to the claim by an employee being able to be made personally, if amended as provided in the Bill, the argument is at least open that a claim by an employee personally is thereby affected. I want to ensure that there can be no reflection by any litigant or counsel for litigants who might be debating whether or not an employee may make a claim in his or her own right and to put it beyond doubt absolutely. There may be an argument from the Attorney-General that it is not necessary, but that ignores the fact that out in the real world there is an argument in courts where wording is changed.

I hold the view that, if the amendment I propose is accepted, it really reflects what is in the Act presently and does not allow comment by any party on the basis that the new provision is quite different from the old. A provision saying that nothing in this section shall be construed so as to prevent a claim under this section being made otherwise than by a registered association has been deleted. My view is that we should ensure as far as possible that changes as a result of some statute revision Bill are not subject to the sort of comment to which I have referred and do in fact reflect the spirit and intention of existing legislation. For the purposes of clarification and putting the issue beyond doubt, the amendment I propose is appropriate.

The Hon. C.J. SUMNER: The first point I make is one of a general nature that will apply to the remainder of the amendments, namely, that this statute law revision proposal (which is what this Bill is) has been considered at length by a committee comprising representatives of the Department of Labour, Parliamentary Counsel, employers and employees. Furthermore, the Bill was considered by the Industrial Relations Advisory Council established by statute.

It has already gone through a fairly substantial review and checking process. The second point of a general nature that I wish to make is that there is a rule or principle of statutory interpretation which says that a statute law revision Bill is considered not to change the substantive law unless it is obvious from the wording. Having made those two general comments, the Government does not see the need for the honourable member's amendment. The Government believes that the rewording proposed in the schedule to the Statute Law Revision Bill, although it is reworded, does the same work as is done by the existing provision. It does not really need to be clarified; therefore the Government opposes the amendment.

The Hon. K.T. GRIFFIN: It does not really matter how much consultation there has been. What the Attorney-General is really suggesting is that, because all of these people have considered it, we ought to rubber stamp it. I really do not subscribe to that. It is quite possible that, even though there has been a lot of consultation and, apparently, agreement reached, the persons who have looked at it have not considered it from the same perspective as members of Parliament. Although it might be regarded as a statute revision Bill, it seems to me that it is still possible, even in the circumstances to which the Attorney-General has referred, for members of Parliament to propose amendments and for those amendments to be considered in the context in which they are presented.

The Hon. C.J. Sumner: I was not denying that.

The Hon. K.T. GRIFFIN: All right. The very fact that it has been through IRAC is an important factor to consider, but it is not the only factor. What I am suggesting is that the amendments that I am moving assist in ensuring that there can be no debate about the significance of the amendment. The rule of statutory interpretation to which the Attorney referred is only as good as the drafting itself in the sense that the words of the redraft may be construed as making a substantive change to the law. That is pretty wide and it is always a difficult thing to interpret when that sort of question gets into court. I remember only last year a problem with some statute revision provisions in the Land Agents, Brokers and Valuers Act where something which purported to be statute law revision—merely drafting—had a substantive effect on the law. That has been acknowledged by the Attorney-General.

In this case, it seems to me to be quite sensible to accept my amendment to the schedule because it puts back the position which applies under the present principal section of the law and does not raise any prospect of argument between dissatisfied ligitants in some court, which will only add to costs. I regret that, on this aspect of the law, the Attorney-General and I do not seem to be able to see eye to eye.

The Hon. I. GILFILLAN: I have looked and listened to the best of my ability and it seems to me that the wording may allow for a claimant to be represented by himself or herself and not necessarily by a registered association. My analysis of it is that the amendment makes it beyond doubt that an employee can personally make representation.

The Hon. C.J. Sumner: It is not in doubt now.

The Hon. I. GILFILLAN: If it is not in doubt now, I can see no harm in making doubly sure of it. It seems that the amendment has more going for it than against it.

Amendment carried.

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

Page 11, proposed new section 50 (3)—After 'employer' insert 'at all reasonable times'.

The principal section deals with powers of inspectors and their right of entry. I would ordinarily raise some other issues about the powers of inspectors but, in the context of statute law revision, it is important to focus only on specific amendments. The present subsection (3) provides:

Every employer shall at all reasonable times furnish the means required by an inspector which are necessary for the exercise of his duties and powers.

The Bill proposes that it is the duty of an employer to facilitate—

. . . so far as may be practicable in the circumstances, the exercise by an inspector of powers under this section.

It seems to me that 'at all reasonable times' should be inserted because that reflects the present position. I do not believe that the reference to 'so far as may be practicable in the circumstances' actually accommodates the question of reasonable timing. To ensure that there is no substantive change to the obligations upon an employer, I have moved my amendment.

The Hon. C.J. SUMNER: The Government does not disagree with that.

Amendment carried.

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

Page 16, proposed amendment to section 82 (1) *(a)*—Leave out this amendment and substitute: After 'he' insert 'or she'.

Section 82 deals with provisions relating to automation. The present provision states that, notwithstanding any other provisions of this Act, the commission or a committee may insert in an award provisions relating to the obligations, duties and responsibilities of any employer upon the introduction or proposed introduction by that employer of automation or other like technological changes in the industry in relation to which he is an employer.

The Bill seeks to delete 'in relation to which he is an employer' and I seek to leave that in and to insert the words 'or she'. That makes it clearer that the obligation of the employer in relation to new technology relates to the industry in which he or she is an employer. I would prefer to leave in the present provisions of the Act together with my amendment and delete reference to that particular industry.

The Hon. C.J. SUMNER: The Government does not see the necessity for this amendment. It is the purpose of a statute law revision Bill, among other things, to reduce, simplify and remove unnecessary verbiage. The Government is of the view that section 82 of the principal Act quite clearly talks about the introduction of technological change in relation to which the person referred to is an employer, because it refers to introduction by that employer. That is actually in the section now. To delete the words 'in the industry in relation to which he is an employer' is a sensible removal of unnecessary words.

The Hon. I. GILFILLAN: I oppose the amendment.

Amendment negatived.

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

Page 17, proposed repeal of section 91—To oppose this amendment.

Section 91 of the principal Act deals with overlapping awards and it has been in the Act for quite a number of years. It seems to me that to strike out the section as is proposed by the schedule may well raise questions about overlapping awards which are conveniently dealt with in the principal Act and in this section. It is a complex issue. There are undoubtedly rules of law and precedent which apply in the area of overlapping State and Federal awards, but it seems to me that to delete section 91 is really to open up the question for more debate than is necessary, and section 91 as it is does no harm and, if anything, acts to clarify the position without throwing litigants into a position where they are required to argue the matter on the basic principles of constitutional law. I indicate opposition to the proposal to strike out section 91.

The Hon. C.J. SUMNER: The Government rejects this amendment. Section 91 states in a very complex manner that employees covered by an award or order of the Commonwealth Conciliation and Arbitration Commission are not bound by an award of the South Australian Commission that may contain similar provisions. Further, it says that rights, liabilities or obligations accrued or incurred under State awards are not prejudiced. The current Act states what is the law on this question and, as such, is unnecessary. We say that section 91 in the Act is unnecessary because, pursuant to section 109 of the Australian Constitution, where there is a conflict between a Commonwealth award and a State award, the Commonwealth award has effect and the State award is of no effect. There is no point in having a section like this which, in a very complex way, restates that proposition.

The Hon. I. GILFILLAN: I oppose the Hon. Mr Griffin's amendment.

Amendment negatived.

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

Page 20, proposed amendment to section 129 (2)—Leave out 'must' and insert 'may only'.

Section 129 of the principal Act deals with a registered association being required to send yearly financial statements to the Registrar and under subsection (2), complaints for offences against the provisions shall be made by the Registrar. The proposed amendment in the schedule is that 'shall be' is changed to 'must' which suggests that there is a mandatory provision to lay complaints. I prefer that they 'may only' be made by the Registrar which then reflects a discretion on the part of the Registrar which I do not think the word 'must' really does.

The Hon. C.J. SUMNER: In the modern drafting, the use of the word 'must' is occurring more and more in place of the word 'shall', and I do not see that—

The Hon. K.T. Griffin: It is mandatory, it is not discretionary.

The Hon. C.J. SUMNER: I do not see how it differs from the existing provision. Complaints for offences against this section shall be made by the Registrar. A couple of other words are taken out, but apart from that, we are changing the word 'shall' to 'must'. I would not have thought there was any difference.

The Hon. K.T. GRIFFIN: I must confess that I get a bit confused by so-called modern drafting at times. It seems to me that there is an element of discretion in the 'shall be' whereas there is not in 'must'. I have always understood 'must' to mean it is mandatory. The problem I have with the change from 'shall be' to 'must be' is that it suggests a stronger emphasis upon the obligation of the Registrar. There is an obligation to do so. I have had this out before, I think, on other occasions, and I must say that I prefer my amendment.

The Hon. I. GILFILLAN: It seems that there is a pretty fine line and I tend to come down on the side of the author. In other words, I oppose the amendment.

Amendment negatived.

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

Proposed new section 157 (2)—Leave out 'the employer's guilt will be presumed unless it is established' and insert 'the onus is on the employer to establish'.

Section 157 of the principal Act deals with the dismissal of an employee from employment in consequence of certain matters, for example, the employee becoming or acting in

the capacity of a member of any committee and the employee taking part or being involved in any industrial dispute.

As I said during my second reading contribution, the redrafting that appears in the schedule is, in my experience, novel. Maybe from a political point of view it would be desirable to leave it as it appears in the schedule because what it provides is that, on it being established that an employer dismissed an employee, the employer's guilt will be presumed unless it is established that certain things occurred. I suppose that that could be broadly described as a reverse onus, but in such blatant terms as 'guilty unless proved innocent' (as it appears here) it seems to me that it really brings it into fairly sharp focus.

Maybe from the political point of view it would be desirable to leave it in as 'guilty until proved innocent' but I do not subscribe to that. I believe that the normal practice and the normal drafting ought to apply and that what is generally regarded as placing the onus on an employer (a reverse onus in this instance) ought to be maintained. I do not subscribe to this drafting and if it is modern drafting then I think it is to be regretted.

The Hon. I. GILFILLAN: I like this amendment. It shows some sensitivity, and I believe it has improved wording. The opinion I hold (that it does not materially alter the meaning and in fact probably does not alter it at all) is a satisfactory assurance to me that the amendment is worthy of support.

The Hon. C.J. SUMNER: I will not oppose the amendment.

Amendment carried; schedule as amended passed.

Title passed.

Bill read a third time and passed.

PUBLIC FINANCE AND AUDIT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

PLANNING ACT AMENDMENT BILL (No. 1) (1987)

Returned from the House of Assembly without amendment.

WEST COAST PRAWN FISHERY REGULATIONS

Adjourned debate on motion of Hon. Peter Dunn:

That the general regulations under the Fisheries Act 1982, concerning West Coast Prawn Fishery, made on 27 November 1986 and laid on the table of this Council on 2 December 1986, be disallowed.

(Continued from 8 April. Page 3935.)

The Hon. M.J. ELLIOTT: When I sought leave to continue my remarks on the last occasion we were discussing this matter, I was wanting an opportunity to have discussions with the various groups involved. While I have not as yet been persuaded as to the merits or otherwise of transferable licences versus non-transferable licences, it is my understanding that there are now ongoing discussions between the Minister of Fisheries and the fishermen which probably could be best expedited if these regulations were disallowed at this stage so that they might be moved again. This would allow a chance for them to be discussed further when Parliament next sits in July or August. Without giving any commitment as to how I will react in the long term, I will be voting for the disallowance at this stage.

The Hon. PETER DUNN: These regulations must be disallowed. We had some problems when it was first decided to disallow them in that the Minister could not put the regulations back on the statute and the three fishermen would have been without licences. However, commonsense has prevailed, but not before considerable lobbying by the Liberal Party.

I do not think that the Minister understood how regulations worked, because we had to convince him that, by disallowing them now and reinstating them at a later stage, the fishermen could present their case to the Minister. I think that that is a fair and reasonable thing to do. If we want to show some humanity to those fishermen, who are by their very nature—being so far away—at a disadvantage, I think that this is the correct procedure to adopt. I thank the Minister for being magnanimous enough to accept our suggestion that he disallow the regulations now, because they have been lying on the table for 14 days. Should they be allowed, then there would be no chance for those fishermen in the Far West Coast prawn fishing industry to present their case, which they believe is their right. They believe that they have a good case to present for the transfer of these licences.

The Liberal Party made that suggestion to the Minister and the Department of Fisheries. They have accepted it, and I thank them for doing so. This will improve the relationship among the fishermen, the Department of Fisheries and the Minister. I support the disallowance.

Motion carried.

SECOND-HAND GOODS ACT REGULATIONS

Adjourned debate on motion of Hon. K.T. Griffin:

That the regulations under the Second-hand Goods Act 1985 concerning partial exemptions, made on 15 May 1986, and laid on the table of this Council on 31 July 1986, be disallowed.

(Continued from 1 April. Page 3676.)

The Hon. C.J. SUMNER (Attorney-General): The Government opposes this motion for disallowance and asks the Council to reject it and, therefore, to keep in place the regulations. Having said that, I wish to take the opportunity to advise the Parliament of decisions that have been taken by the Government with respect to the Second-hand Goods Act. The decisions that I am about to announce have been taken in principle by the Government and will be the subject of, first, public comment and, secondly, the preparation of legislation to give effect to the principles. That legislation, if the Government finally determines to proceed, will be introduced in the next session of Parliament.

The in-principle decision that has been taken by the Government is that the Second-hand Goods Act 1985 should be repealed and that the licensing system for second-hand dealers should be thereby abolished. I should like to canvass with the Council the history of this matter. The Second-hand Goods Act 1985 commenced operation on 1 June 1986. The Act was a result of a review of the Second-hand Dealers Act 1919 and the Marine Stores Act 1898 which was instituted in January 1981. The review was undertaken by an inter-departmental working party chaired by a senior officer of the Police Department. As a result of that review the new Act was introduced and, under section 7 of the Act, the Commissioner of Consumer Affairs is responsible for the administration of the Act. The Act provides for the licensing of second-hand dealers; requires second-hand dealers to keep prescribed records; and provides the police with wide powers of search and entry of second-hand dealers' premises in the pursuit of stolen goods.

It was decided when this Act was being redrafted to give the administration of the Act to the Commissioner of Consumer Affairs because of the involvement of the Department of Public and Consumer Affairs with other occupational licensing areas. Every other occupational licensing Act administered by the Commissioner of Consumer Affairs, however, is designed primarily to protect consumers, but it was considered rational if we were going to have licensing in the area of second-hand dealers, that that licensing ought to be carried out through a Government body or through an authority already established to deal with occupational licensing, rather than to have separate licensing mechanisms throughout Government.

So, it was decided that the Act and the licensing of second-hand dealers were to be carried out through the Commercial Tribunal, the Act to be committed to the Minister of Consumer Affairs and the Commissioner of Consumer Affairs to be responsible for its administration. However, the Act—I repeat—is not designed primarily to protect consumers. It does not really focus on two issues of occupational licensing, which are usually considered necessary for consumer protection, that is, whether individuals have appropriate qualifications or experience and whether they are financially viable. The licensing of second-hand dealers is not concerned with whether or not second-hand dealers are properly qualified or experienced to deal in second-hand goods or whether they are financially viable. The department does not receive consumer complaints about stolen goods nor, for that matter, are there substantial complaints about second-hand goods other than motor vehicles, which are of course the subject of separate legislation.

Rather, the major purpose of the legislation is to restrict the sale of stolen goods in South Australia, and to prevent the entry into the second-hand goods industry of persons who are likely to engage in the selling of stolen goods. During the nine months that the Act has been in operation, the Department of Public and Consumer Affairs has received a steady stream of requests for exemptions from the Act. It is not always clear that these requests for exemption are unreasonable. However, as more and more exemptions are acceded to, the whole purpose of the Act is undermined.

It is worthwhile pointing out, and I think that this has been pointed out by members in this place, that trash and treasure sales are not covered unless individuals sell goods through those venues more than six times a year above the value of $40. Already there is inbuilt into the Act a significant number of exemptions. So, when these requests for exemptions were being considered by the department and, in light of the motion moved in this Council for the disallowance of the regulations, the Government decided to examine the Act and the regulation procedure *de novo*.

In doing that, there have been discussions between the Police Department, the Department of Public and Consumer Affairs and the Deregulation Adviser. The result is that they have agreed that the present Act should be repealed. It is agreed, I believe, that the licensing provisions of the current Act are unnecessary. It would be true to say that the Department of Public and Consumer Affairs and the Deregulation Adviser could see no justification for the continuation of the Act.

On the other hand, the Police Department was concerned, because of its role in the detection and prosecution of people involved in the fencing of stolen goods. As a result of the discussions, the Government has concluded that, in principle, the Act should be repealed and that the powers that the police require with respect to entry and inspection, which are contained in the Second-hand Goods Act, sections 16, 20 and 23, should be transferred to another Act, probably the Summary Offences Act.

The sections that I have mentioned give power to the police to enable the police to enter and search the premises of those carrying on business as a second-hand dealer or commission auctioneer without the need to obtain a warrant. The police have had these powers for the past 66 years.

The end result (and I will not go through all the details, but there are police powers of various kinds under the Second-hand Dealers Act) is that the Government has agreed in principle to repeal of the Second-hand Goods Act and transfer of the provisions in the current Act relating to police powers of entry and inspection, approval of records kept by secondhand dealers and other related matters to the Summary Offences Act 1953 or, if that Act is not considered to be appropriate, some other Act.

However, I believe that the general concensus is that, rather than creating new legislation, as the police are responsible for enforcing the Summary Offences Act, that is where the provisions ought to go. Although the Act is committed to the Attorney-General, enforcement of the legislation is clearly a police matter and that would place the question of the detection of stolen goods through secondhand goods outlets squarely with the police.

Cabinet has approved that in principle, and Parliamentary Counsel in liaison with the deregulation adviser and the Police Department will prepare legislation to give effect to that in principle decision. That legislation will then be submitted to the Parliament in August unless the Government receives submissions from the public following this announcement that indicates that it ought to reconsider its view.

That outlines the Government's position. Obviously, if the Government's proposal is proceeded with in the next session, the matters we are discussing under this motion will become completely academic and I would therefore suggest that for the moment the disallowance motion not proceed in the light of what I have announced on behalf of the Government and that the matters be re-examined when Parliament resumes and when the Bill is introduced, assuming that the Government proceeds with the Bill (and I fully expect that it will, although I wish to provide some opportunity for public comment). When the Bill is introduced, it will be subject to public scrutiny.

The Hon. I. GILFILLAN: It is good to hear the Attorney assure us that there will be time for comment, both public and parliamentary, on legislation. At times that appears to cause the Attorney some perturbation about premature comment and people abusing that privilege, and I hope that that does not upset him too much to the extent that he does not make intended legislation available before time. That is important in ensuing informal comment. The Government is to be commended when it makes legislation available to the public and to us in advance. However, the Government exposes itself to more criticism than if it plays its cards very close to its chest. The other side of the coin is that it is often very frustrating and very unsatisfactory to deal with legislation that is introduced spontaneously, and that often causes unnecessary fears and overreactions.

I have not had time to consider this matter in depth. We have had conversations over time about this matter with people in the secondhand industry and antique dealers, and I am grateful to the Hon. Mr Griffin for information and correspondence with which he provided me recently that refreshed my memory.

One of the points that seems to be relevant to the disallowance motion is that deregulation is a goal that I assume

the Liberals support on balance, and therefore I am not inclined to support disallowance of the regulations at this stage, because at least it removes from those who are dealing in goods to the value of $40 the imposition of having to be licensed. I can see that those who are licensed feel that they are hard done by. I was interested to read in a letter from Mr Rolevink of the Antique Dealers Association in the United Kingdom the following:

> There is no need for secondhand dealers' licences at all, as none exist there, and recovery of stolen goods would be equal to that here.

I cannot say whether the level of recovery of stolen goods in the United Kingdom is equal to the level here, but perhaps legislation down the line will relieve the licensing of dealers rather than imposing a higher level.

The Hon. C.J. Sumner: That's the proposition.

The Hon. I. GILFILLAN: It sounds good, but we must see the text first. Sometimes the event does not fulfill the promise.

The Hon. C.J. Sumner interjecting:

The Hon. I. GILFILLAN: Not always. That is a private and subjective judgment. We are not persuaded to support the disallowance motion.

The Hon. K.T. GRIFFIN: I thank those members who have addressed this issue for their contribution to the debate and particularly the Attorney-General for his indication that in principle the Government proposes to move to repeal the Second-hand Goods Act and to transfer certain provisions to the Summary Offences Act or some other suitable vehicle to ensure that the police retain their powers in relation to entry and inspection of goods that they might suspect are stolen. If my moving this motion has done nothing more than prompt the Government to review the need for amendment of the Second-hand Goods Act, it has been a good thing.

I still propose to press the point in relation to partial exemptions because, as I said when moving this motion, there is a sense in which there is inequity between those who are required to be licensed and carry on their business from premises that must be maintained according to a particular standard and are thus at a disadvantage and those who operate from open markets.

The Hon. C.J. Sumner: Your people wanted to bring in an exemption when the Bill came before Parliament. That is what Burdett said.

The Hon. K.T. GRIFFIN: There is no doubt that in certain areas people carry on business in open markets.

The Hon. C.J. Sumner: And it was your people who wanted an exemption for Trash and Treasure.

The Hon. K.T. GRIFFIN: My understanding of what the Hon. Mr Burdett sought was that it was not so much a blanket provision as exemption but, be that as it may, the point is that there are those who by virtue of the partial exemption under this regulation can carry on business as secondhand dealers provided, of course, that any one sale is below $40. It is in that context, therefore, that I believe the regulation ought to be disallowed.

However, I appreciate the Attorney's response and his indication that more wide ranging legislation is likely to be introduced in the August session. Personally, I cannot see any difficulty with that, provided, of course, that if a person is dealing through a business in stolen secondhand goods the courts have some power to make orders about the suspension of that business or the carrying on of that business over a period of time. Provided the courts and the police have adequate powers in relation to the way in which the stolen goods will be dealt with, I certainly have no difficulty with that. It is a good piece of deregulation and I hope that it is followed by other examples. I urge the Council to support the disallowance.

The Council divided on the motion:

Ayes (7)—The Hons M.B. Cameron, Peter Dunn, K.T. Griffin (teller), C.M. Hill, J.C. Irwin, Diana Laidlaw, and R.I. Lucas.

Noes (8)—The Hons G.L. Bruce, T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, T.G. Roberts, C.J. Sumner (teller), and G. Weatherill.

Pairs—Ayes—The Hons J.C. Burdett, L.H. Davis, and R.J. Ritson. Noes—The Hons J.R. Cornwall, Carolyn Pickles, and Barbara Wiese.

Majority of 1 for the Noes.

Motion thus negatived.

[*Sitting suspended from 6 to 8.42 p.m.*]

PETROL

Adjourned debate on motion of Hon. M.J. Elliott:

1. That a select committee of the Legislative Council be established to consider and report on the retailing and wholesaling of petrol in South Australia and related matters including—
   - *(a)* the instability of retail petrol prices;
   - *(b)* the price of petrol in country areas;
   - *(c)* the effect in the market of commissioned agent sites;
   - *(d)* cross brand purchasing;
   - *(e)* the possible effects of automated sites;
   - *(f)* the methods of price support used by oil companies;
   - *(g)* the viability of the retail section of the petrol industry as presently structured;

   and
   - *(h)* any other matters of significance relating to points *(a)* and *(g)* above.

2. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that Standing Order No. 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.

3. That this Council permit the select committee to authorise the disclosure or publication as it thinks fit of any evidence presented to the committee prior to such evidence being reported to the Council.

(Continued from 25 February. Page 3110.)

The Hon. C.J. SUMNER (Attorney-General): The Government opposes this motion. Simply, nothing will be achieved by it. The basis for a select committee has not been established by the Hon. Mr Elliott in introducing the motion. The purposes of a select committee are to ascertain facts about a situation and/or to receive submissions on possible solutions to problems identified as a result of the receipt of those facts. The reality is that no information can be ascertained that is not already known from the numerous inquiries over the past two decades into the petroleum industry. Any solutions to price instability will restrict competition and lead to higher petrol prices. There can be no other outcome. The Council and the public of South Australia should know that the Democrat proposals will lead to higher prices for metropolitan consumers and no relief for country consumers. The Australian Democrats should come clean and say what they propose.

The Hon. I. Gilfillan: A select committee.

The Hon. C.J. SUMNER: They say, 'A select committee.' The only result from a select committee which will meet the sorts of issues discussed by the Hon. Mr Elliott is higher prices for consumers in the metropolitan area of South Australia. There can be no other result. In the context of the purposes of a select committee (namely, ascertaining facts and canvassing solutions to any identified problems), it must be noted that since 1971 there have been 22 inquiries, either Federal or State, of various kinds into the petro-

leum industry in this country. I seek leave to have inserted in *Hansard* in tabular form a list of those inquiries.

Leave granted.

Inquiries Relating to the Petroleum Industry

1. 1971 Senate Committee on off-shore petroleum resources.
2. 1973 Royal Commission on petroleum-refining, marketing and pricing.
3. 1974 Prices Justification Tribunal—Shell Co.—higher prices.
4. 1975 Prices Justification Tribunal—Caltex Oil—higher prices.
5. 1975 Prices Justification Tribunal—Ampol—higher prices.
6. 1975 Prices Justification Tribunal—H.C. Sleigh—higher prices.
7. 1976 Prices Justification Tribunal—B.P. Aust. (Apr.)—higher prices.
8. 1976 Prices Justification Tribunal—B.P. Aust. (Oct.)—higher prices.
9. 1977 Prices Justification Tribunal—Esso Aust.—higher prices.
10. 1977 The New South Wales Prices Commission—petrol prices.
11. 1977 Prices Justification Tribunal—Caltex Oil—higher prices.
12. 1977 Prices Justification Tribunal—Amoco—higher prices.
13. 1978 South Australian Royal Commission into Shop Trading Hours—petroleum product retailing.
14. 1978 Consumer Affairs Council—Tasmania—Motor spirit sale and distribution.
15. 1978 Prices Justification Tribunal—Mobil Oil—higher prices.
16. 1979 Prices Justification Tribunal—Shell Co.—higher prices.
17. 1979 Prices Justification Tribunal—Oil Industry.
18. 1981 Prices Justification Tribunal—Oil Industry.
19. 1982 Special Advisory Group—Minister of Consumer Affairs, Victoria—Petroleum marketing, pricing, divorcement and related matters.
20. 1984 Prices Surveillance Authority—Oil Industry.
21. 1986 South Australian Government *Ad hoc* Committee—Trading hours, automated sites.
22. 1986 Industries Assistance Commission—Petroleum products—taxation measures.

The Hon. C.J. SUMNER: During that time—

The Hon. M.J. Elliott: It is pretty gutless to bring this up on the last night so we don't have a chance to have a look at it.

The Hon. C.J. SUMNER: I am happy to sit whenever the honourable member wishes. I would have thought that any member who moved a motion such as this would have done his research sufficiently to ascertain the number of inquiries into the petroleum industry in the past two decades.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: As usual, the Hon. Mr Elliott is poorly researched. During that time, apart from the issues raised in these inquiries, a number of specific issues have been canvassed and dealt with, and I will draw the attention of the Council to some of them, the first being the issue of divorcement, that is, divorcing petrol retailing from wholesaling—divorcing oil companies from control of retailing. That matter was extensively canvassed in public forums in the months prior to the 1980 election. As a result of that—

The Hon. K.T. Griffin: The Fife package.

The Hon. C.J. SUMNER: The Hon. Mr Griffin interjects and says, 'The Fife package.' The Minister of Business and Consumer Affairs (Mr Fife) in the Fraser Liberal Government canvassed this issue, and it was subjected to quite a lot of public comment and resulted in the package of measures passed by the Federal Parliament. They included the Petroleum Retail Marketing Sites Act 1980, which restricted the number of retail sites operated by oil companies. Since that time, the number of sites operated by oil companies has been reduced from 900 company sites to approximately 400. In 1980, as part of the package, the Petroleum Marketing Franchise Act was passed and that regulated certain conditions of the lease arrangements between lessees and the oil company lessors. The issue was publicly canvassed at that time and Federal legislation was passed. It has resulted in a significant reduction in oil company participation at the retail level in terms of the number of sites.

The Hon. M.J. Elliott: Not in volume.

The Hon. C.J. SUMNER: Also in volume.

The Hon. M.J. Elliott: Get your facts straight.

The Hon. C.J. SUMNER: The honourable member is obviously speaking from vastly superior knowledge in this matter. I say that, I might add, completely with my tongue in cheek, because the honourable member has demonstrated quite clearly in his speech and his interjections that he knows nothing about the petroleum industry in this State or in Australia.

If complete divorcement were to come in, let us look at the consequences. Apart from the fact that prices to consumers would possibly increase, I suggest that what would happen is that some of the independents would use it to build up their own holdings and purchasing power and would use that purchasing power to get rebates from oil companies which they would use competitively in discounting.

In other words, they would use their purchasing power in precisely the same way that the Hon. Mr Elliott says the oil companies are using their power in the market to promote discounting. I do not necessarily accept the theory that this is all a matter of some conspiracy by the oil companies. There is little doubt that if there was complete divorcement, there would be different concentrations of economic power at the retail level which would not stop discounting. It would in fact enable discounting to continue probably without the oil companies being involved but with groups of independent retailers—

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: You would. The Hon. Ms Laidlaw knows as much about it as the Hon. Mr Elliott does. You would have exactly the same pressures. You would have large groups of independent retailers using their purchasing power to get discounts from oil companies.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: That is one aspect of the issues that have been dealt with, not all of them, which I am going on with. The next step from the Hon. Mr Elliott and the Hon. Mr Gilfillan would be to say, 'This is a terrible abuse of economic power; it is competitive. It is a terrible abuse of economic power; therefore, we should restrict the power of retailers to own more than one site.' The Government does not believe that one ought to go down that track and be involved in that degree of regulation. In terms of the aims of the resellers, it would not achieve anything and, just taking that one issue on its own, it probably would not assist the competitive position in the market in Adelaide or the rest of Australia. The important point from the divorcement angle is that it would not assist the majority of resellers.

The second issue that has been addressed quite extensively (or it was some years ago in this area of petrol

pricing), was the differential pricing in the States that occurred prior to 1984 and the consideration of that issue by the Prices Surveillance Authority in 1984. From 1980 to 1984, some States used State price control powers to reduce the wholesale price below that determined by the Petroleum Products Pricing Authority. This led to different wholesale prices in different States of Australia set by different pricing authorities. Indeed, it is instructive to note what happened in South Australia when that occurred under the previous Liberal Government.

In November 1980 the Liberal Government reduced the wholesale price of motor spirit to resellers by 3c a litre in an attempt to eliminate what they alleged to be discriminatory pricing by oil companies to selected outlets which was threatening the viability of non-participating resellers. The reality was that, following that, no discounting was carried out in the metropolitan area and the retail price in the metropolitan area, despite the reduction in the wholesale price, increased by 3c a litre. Subsequently, the Government, realising the adverse effect of its interference with petrol pricing, increased the wholesale price by 1c and restored the balance of 2c a litre on 5 February 1981. What happened as a result of that—

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: No, the price of petrol went up by about 6c and discounting finished.

The Hon. M.J. Elliott: After they took it away.

The Hon. C.J. SUMNER: No. As a result of Government interference, South Australian petrol prices lifted above those in other Australian States and did not rationalise to a common price level as expected. As a result of oversupply of motor spirit, discounting increased in the Eastern States and prices fell further below the South Australian level. The reality is that, as a result of that Government interference in 1980 and 1981, South Australian consumers paid—and paid quite substantially.

As a result of pressure by the resellers again later in 1981, the wholesale price was again reduced by 3c per litre. That was an example of Government interference in the wholesale price which resulted in a reduction in competition and resulted in consumers in Adelaide paying more than they ought to for their petrol for a significant period. I suggest that, in the light of that experience, if members want to interfere in a similar way with the wholesale price of petrol at the State level, then something similar will occur, namely, the consumers will be disadvantaged. Consumers will pay the price.

In 1984 the Bannon Labor Government supported the Prices Surveillance Authority review of petrol prices. That was supported by other State Governments, the Federal Government, the oil industry, and retailer organisations, including the South Australian Automobile Chamber of Commerce as it was then, now the Motor Trade Association. They supported the PSA review of petrol prices in 1984, and that review returned to a national price fixing authority. That is, in this industry, it was determined that prices ought to be fixed on a national basis. The Prices Surveillance Authority should assess the claims of the oil companies, could assess any other submissions put to it, could allow differentials for freight and come down with a decision as to the appropriate wholesale price.

I make it quite clear that the State Government does not intend to resile from allowing the Prices Surveillance Authority, the Federal authority, to set the prices of petroleum products in this State.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: You are a nut. We are not hiding behind the PSA. It is simply desirable in an industry like this that there be one pricing authority. All interested parties can make submissions and then, I believe, given that the oil industry is a national industry, the PSA is the appropriate body to make that assessment and determine what is an appropriate price with freight differentials, depending on the assessment they make of the information that is given to them. The notion that somehow or other there should be different State pricing authorities around the country, with different State Governments fixing different prices for petrol products, is something that in my view is not sustainable in a nation such as Australia.

The Hon. Mr Elliott has made much about my statement relating to who is subsidising whom with respect to petroleum products. I would like to analyse the PSA decision in 1984 in that respect. Much emotion is generated by arguments about whether the country is subsidising the city in petrol prices in periods of metropolitan discounting and little competition in the country. The Hon. Mr Elliott, obviously with his superior knowledge of the industry no doubt achieved after a great many years of study, has suggested when speaking to the motion that I had made 'an idiotic response' by suggesting that the city is subsidising the country.

He has made the clear assertion that the country consumer is subsidising the city consumer. I think the honourable member should refer initially to the interim report of the Prices Surveillance Authority of 20 June 1984 because the oil companies put to the authority that there ought to be a component added to the country price beyond the component added for freight.

The Hon. M.J. Elliott: This is wholesale?

The Hon. C.J. SUMNER: Yes, of course. The Prices Surveillance Authority stated:

> The question of extra, non-freight costs attributable to non-metropolitan distribution was also raised at the inquiry, and companies generally sought to have such costs included specifically in approved prices for areas outside the free delivery areas of the refinery capital cities. At present, such costs are included in the base price, although they are incurred exclusively outside the city areas. They include agency commission fees, higher costs of credit, capital costs of inland and bulk plants, capital and operating costs of outports, multiple handling and storage of product, higher costs of representation and smaller delivery drop sizes. Inclusion of such costs in city base prices has the effect of inflating those prices—

—that is, inflating the city prices—

> and may unduly advantage those marketers who confine their activities mainly to the metropolitan areas; marketers who operate strongly in country areas are relatively disadvantaged by the practice, and the point was made at the inquiry that the practice could discourage extension of supplies to non-metropolitan areas.

This is the conclusion to the Prices Surveillance Authority report:

> There is no obvious reason why price surveillance should prefer one marketing strategy to another, and the authority does not believe that country costs should be obscured by inclusion in city costs, because of the resultant pricing inefficiencies and confusion of price signals to producers. Rather, it seems that maximum approved prices should offer reasonable opportunity for the costs of efficient but diverse marketing strategies to be recovered from the relevant markets, consistent with section 17 (3) of the Act.
>
> The specific costs associated with non-metropolitan marketing and supply are not referable to single locations as are freight costs, but they have a direct impact on city-country price relativities, and so impinge on Government policy in that respect. The authority estimates some $30 million might be involved in the additional costs of country reseller sales of super motor spirit over city sales.

That is interesting, and that perhaps ought to be repeated. This is the authority established with the expertise to examine petrol prices in this country.

The Hon. M.J. Elliott: How much is that per litre? I bet it is less than a cent.

The Hon. C.J. SUMNER: Well, the honourable member is on the run. The conclusion states (and I repeat):

The authority estimates some $30 million might be involved in the additional costs of country reseller sales of super motor spirit over city sales.

If the honourable member wants to put that in another way. I would have thought that that meant that it is saying that there is a subsidy of $30 million from metropolitan consumers to country consumers.

The Hon. I. Gilfillan: It 'might be'.

The Hon. C.J. SUMNER: That is what it says, that the figure 'might be' $30 million. It is not arguing about the fact that the cost of country distribution is greater than city distribution, and that it is not all covered by the freight differential. I go on:

This calculation is based on an estimate of the additional costs of 0.95 cpl provided in evidence by Mobil. This latter figure will be further examined by the authority; the issue of sales to primary producers will be discussed later. It is not certain that the authority would be disposed to accept all costs nominated by the companies, but it accepts the principle involved—

this is the PSA—

and would look to implement it, in the absence of any direction under section 20 of the Act to the contrary, as the components of the costs are dissected and adopted (or rejected). Since there is an element of return on capital invested in country depots in the cost calculation, some part of the proposed implementation may be delayed pending resolution of the major issue of profitability.

In its final report in July 1984 on this topic the PSA said:

In the interim report, the authority discussed non-freight costs attributable to non-metropolitan distribution. Costs identified by companies included agency commission fees, higher costs of credit, capital costs of inland and bulk plants, capital and operating costs of outports, multiple handling and storage of product, higher costs of representation and smaller delivery drop sizes. The authority—

and this is repeated—

accepted that there should be an increment in non-metropolitan prices in the interests of efficient pricing. However, the authority does not accept that all non-freight non-metropolitan distribution costs mentioned by the companies should be exclusively borne by country consumers. Additionally, some of those costs are offset in various ways. For example, refinery output is based on consumption in metropolitan and non-metropolitan areas, so that some of the additional costs incurred in country marketing are offset by improved economies of refinery throughput.

Essentially, the authority has accepted that an allowance should be made for extra agency commission fees, and for the losses involved in multiple handling of product. The latter losses are difficult to quantify, and the authority wishes to explore the matter further in the future. For the present, and having regard to the volume of product in non-metropolitan areas not supplied through country depots, the authority has determined that a flat non-freight non-metropolitan price increment of 0.2 cpl would be appropriate. This increment does not include any element of return on capital, which will be considered when the issue of profitability is resolved.

The Federal Government, when faced with this decision, then decided that it would not accept the PSA's recommendations on this topic and, in a statement made to the press by the Federal Treasurer on 20 August 1984, Mr Keating said:

The Government has considered the wider policy implications of the proposed changes. While recognising the reasoning behind the proposals, the Government has decided that, at this stage, they should not be implemented. This will mean that certain costs specific to country distribution of petroleum products will continue to be included in capital market prices established by the PSA for these products. The inclusion of these costs in country differentials would have widened the margin between metropolitan and non-metropolitan prices and added to the budgetary cost of the Petroleum Products Freight Subsidy Scheme.

Therefore, the PSA recognised that, in addition to freight costs, there are other costs of distribution that oil companies must pay in country areas. The PSA recommended that some allowance ought to be made for that; the Federal Government rejected it. In other words, in 1984, the Prices Surveillance Authority—the body with the responsibility for examining this issue—determined, in effect, that the full cost of country distribution is not at the present time included in the country price; and the PSA argued that it should be.

That was rejected by the Federal Government, but if one accepts the PSA's proposition in this respect—and as far as I know no argument has been put to the contrary; certainly not by the Hon. Mr Elliott to the PSA—there is an element in the base price (both metropolitan and country base price) which covers the costs of distribution in the country over and above freight costs. Now, that is the reality, and honourable members can ignore it if they like.

The first point I make is that there have been 22 inquiries between 1971 and 1986. A number of matters have been dealt with, considered, acted on, or rejected. The question of divorcement, the question of the reduction in wholesale price which a number of State Governments got into in the early 1980s, the Prices Surveillance Authority analysis, and more recently in South Australia, the *ad hoc* committee on trading hours (which also resulted in a change in the laws dealing with petroleum sales)—I have dealt with.

Allow me now to deal with some of the history. During the 1950s through the 1970s the petroleum industry in Australia expanded rapidly. The number of motor vehicles on Australian roads increased significantly as the population increased in size and Australians enjoyed new levels of affluence. By current standards oil was cheap and in apparently abundant supply. All of this changed suddenly and unexpectedly in the early 1970s. In 1973 the world experienced its first oil crisis with the OPEC oil embargo. The price of OPEC oil trebled in a little over 12 months. A second oil shock in 1978 further increased prices and brought growth in the industry to a virtual standstill.

The nature of the oil industry is such that capital investment decisions involve substantial lead times. Decisions concerning the location and capacities of refineries and distribution facilities necessary to service markets in the late 1970s and 80s were made at a time when the industry was experiencing rapid and sustained growth.

In the late 70s the excess capacity that was built into refineries, distribution networks and retail outlets to cater for continued growth were no longer necessary. As a result, individual oil companies began to place emphasis on increasing volume, to improve the economies of running refineries and to lower unit costs. At a time when overall petrol consumption was static, the need to increase volume required companies to compete for greater market share, to secure their long-term survival.

It is probably also worth examining the profitability of oil companies in recent times. Figures released by the PSA for the period 1981-85 show average profits before tax during this period represented only a 2 per cent return on sales, net of discounts, Government excises and taxes. Furthermore, figures for the period 1 January 1986 to 30 June 1986 show that the industry has suffered severe losses on stockholdings and poor financial results. The PSA has estimated losses incurred by the industry during this six month period to be about $277 million or a loss of 5.9 per cent on sales.

Furthermore, the industry has been involved in substantial rationalisation since the period of growth stopped. Two refineries in Australia have been shut down. There was further rationalisation with companies such as Amoco, Golden Fleece and Total withdrawing from the Australian market in some way or another, either by withdrawal or merger. At the retail level there has been significant rationalisation in service station numbers. In 1970 in Australia there were just under 20 000 service station sites. In 1985

there were just under 11 000. Today, market share, for those reasons that I have outlined, is still the key to viability for the remaining oil companies.

As I have already pointed out, the maximum wholesale price of petrol is determined by the Federal Prices Surveillance Authority. It determines the maximum wholesale price for petrol for the whole of Australia, based upon analyses of the costs and profitability of oil companies. It should also be noted that the retail price of petrol is not controlled in South Australia, although it is monitored in the sense that any complaints of excess prices are investigated.

The petroleum industry is a national industry. Therefore, it is appropriate that wholesale price control should be administered on a national basis. To a considerable extent, State boundaries are notional as far as marketing realities are concerned. The oil companies operate nationally, under a statutory umbrella which comprises the Petroleum Retail Marketing Franchise Act, the Petroleum Retail Marketing Sites Act, the Trade Practices Act and the Prices Surveillance Act.

The Government regards these factors as pointing strongly to the need for a single, national pricing body. In particular, the Government believes wholesale price surveillance should be based upon an overall view of national and inter-regional factors—leading to sensible, tolerable pricing decisions, rather than the clearly unacceptable alternative of a mixture of pricing mechanisms. The Federal Prices Surveillance Authority fixes the maximum wholesale price of petrol for the whole of Australia. Capital city maximum wholesale prices are determined by adding State charges and low lead premiums to the PSA approved wholesale price. Country area maximum wholesale prices are in turn determined by adding to the approved capital city price, the appropriate freight differential (also determined by the PSA) to offset the cost of transporting fuel to country areas but not, as I said before, covering the full cost of distribution in country areas. I seek leave to have inserted in *Hansard* without my reading them, two tables, depicting a breakdown of Adelaide petrol prices as at 8 April 1987.

Leave granted.

TABLE 1
Breakdown of Adelaide Petrol Price (ULP)

Recipient		Cents Per Litre
Oil producer		8.6
Federal Government		
Crude fuel excise	8.8	
Pipeline royalty	1.1	
Motor spirit excise	19.2	29.1
State Government (franchise fee)		2.5
Oil company (incl. low lead premium)		12.5
PSA CAPITAL CITY WHOLESALE PRICE		52.7
Resellers margin		5.2
TODAY'S ADELAIDE RETAIL PRICE		57.9*

* most common metropolitan price on 8.4.87

TABLE 2
Comparison with Major Country Centres

	Adelaide	Berri	Mount Gambier	Port Augusta	Port Lincoln	Whyalla
Capital city wholesale price	52.7	52.7	52.7	52.7	52.7	52.7
Freight differential	n/a	1.7	1.2	1.0	0.2	1.4
Reseller margin (1)	5.2	6.5	5.9	5.8	7.0	6.8
RETAIL PRICE	57.9(2)	60.9(3)	59.8(3)	59.5(3)	59.9(3)	60.9(3)

Explanatory Notes:
(1) estimated reseller margin assuming no wholesale rebates
(2) common Adelaide price on 8.4.87
(3) most common retail price on 7.4.87
Source: Prices Commissioner
Prepared: 8.4.87

The Hon. C.J. SUMNER: That price was when discounting was not prevalent in the metropolitan area. It indicates resellers' margins available in the metropolitan area, and the resellers' margins available in some major country centres. That is the price obtained when there is no discounting. Obviously, at the present time the price is significantly lower than that because in the metropolitan area at present there is one of the regular periods of discounting.

Against this background I now propose to turn to the retail sector of the industry. The Hon. Mr Elliott in his address claimed there are three types of petrol reselling outlets. In fact, there are five types of reseller operation and they fall into two groups—those conducted from 'company controlled sites' and those conducted from 'dealer controlled sites'. To avoid any confusion I shall use the terms adopted within the industry and will define exactly what they mean. The term 'company controlled site' is used in the industry to describe an outlet where either the freehold is owned by an oil company or the outlet is leased by an oil company from an independent owner. The term 'dealer controlled site' is used to describe an outlet where the freehold is owned by the dealer or the outlet is leased by the dealer from an independent (non oil company) owner. There are three types of reseller operation conducted from company controlled sites: lessee dealers; agent dealers (commission agents); and company operated sites.

A 'lessee dealer' is an operator who leases his site from an oil company. These lease agreements are subject to the Petroleum Retail Marketing Franchise Act. An 'agent dealer' (or commission agent) operates a site and sells fuel as an agent for the company. The fuel sold through the site is owned by the company and prices are determined by the company. The agent receives a commission in the form of a monthly allowance but is free to develop other business opportunies on the site.

A 'company operated site' is one where the company is actually the dealer and employs a manager and staff to operate the site. The number of agent dealer sites and company operated sites are limited nationally by the Petroleum Retail Marketing Sites Act. There are two types of reseller operation conducted from dealer controlled sites—owner dealers and independent dealers.

'Owner dealers' are operators who own their own site (or lease the site from an independent owner) and are supplied by an oil company under fixed term sales or supply agree-

ment. Dealers in this category, I might add, include some of the leading discounters in Adelaide. The term 'independent dealer' is used to describe those outlets that are owned by an individual operator and trade under a name other than that of one of the major oil companies, for example, in Adelaide, Southern Cross Petroleum.

I shall now deal with the specific issues identified by the Hon. Mr Elliott in his terms of reference. First, the instability of retail petrol prices. Adelaide has a small but significant number of petrol discounters. To begin with there were perhaps two or three leading discounters. However, there are now in the vicinity of 15 dealers, both owner dealers and lessee dealers, who regularly engage in aggressive price discounting. The pattern of price competition in the Adelaide metropolitan area has become well established. Despite what the Hon. Mr Elliott may believe, discounting is usually but not exclusively led by one or two prominent owner dealers. These owner dealers operating from dealer controlled sites have negotiated fixed term supply contracts with respective oil companies.

In return for their purchasing commitment and in recognition of their own investment in capital and so on, the owner dealers receive a rebate off the PSA approved wholesale price. The oil companies justify these rebates on the basis that they provide a return to the reseller for the commercial risk of his freehold investment and contribute to the cost of maintaining and replacing capital items. Some owner dealers have chosen to pass on part or all of their rebates in the form of discounted prices. By maintaining prices below the general level in the market they have substantially increased their sales volume. At a time when oil companies are attempting to maximise volume through increasing market share, these owner operators have been able periodically to renegotiate these favourable supply contracts. These contracts include a guaranteed rebate on the maximum approved wholesale price and provision for further rebates during periods of intense price competition.

Retail competition has also been intensified by a growing number of resellers who conduct a range of business from a site and from time to time use petrol as a 'loss leader' to promote sales in other areas of their business (for example, mechanical repairs, video hire, car wash, accessories, soft drinks). The maximum wholesale price for the Adelaide metropolitan area as determined by the PSA (plus state charges and low lead premium) is 52.7c per litre. Adelaide retail prices currently fluctuate within the range of 46c to 58c per litre.

Prices in the upper part of this range seldom hold for longer than seven days. Once the leading discounters reduce their price, other resellers in direct competition are left with two alternatives: attempt to maintain their margin on reduced sales or accept a smaller margin and attempt to maintain sales. In reality, petrol is an extremely price sensitive product and resellers located near discount resellers have no alternative but to engage in price competition.

Dealers who are unable to compete turn to the oil companies for price support. The oil companies, because of the importance of maintaining market share and their desire to protect their investment in company controlled sites, offer price support to dealers in the form of wholesale price rebates. The leading discounters then demand additional rebates from the oil companies under their special supply contracts. The decline in prices generally takes from a few days to a fortnight.

During periods of heavy discounting both retail and wholesale margins are cut. The impact of discounting on oil company profitability ultimately forces companies to withdraw rebates, and retail prices return again to the upper levels of the range. Retail price discounting prevails for approximately two-thirds of the time in the Adelaide market.

The Hon. Mr Elliott says that the oil companies have it completely within their control to deal with the situation but, when he says, 'The oil companies could do something about price discounting if they wanted to,' the honourable member seems to forget one of the most important factors in this area, namely, the Federal Trade Practices Act. No single oil company has sufficient influence in the market to eliminate retail price discounting.

Any contract, arrangement or understanding between oil companies which has the purpose, would have the effect, or would be likely to have the effect of substantially lessening competition would be in breach of section 45 of the Trade Practices Act. Any act by an oil company which induces a reseller or any attempt to induce a reseller not to sell petrol at a price less than a price specified by the oil company would be in breach of the resale price maintenance provisions contained in section 96 of the Trade Practices Act.

If the honourable member is suggesting that the oil companies could collude to not supply Mr Skorpos, he is wrong. One really asks how he would get around that problem. The honourable member says that the oil companies can completely control the situation, but if a reseller such as Mr Skorpos who owns his site and has built up a capital investment in his site is told by an oil company that it will not supply him, and if he goes to another company to get supply, how does the honourable member suggest that the oil companies will deal with that situation? It would have to be by collusion, contrary to the Trade Practices Act. That is something that the Hon. Mr Elliott in pursuit of his own little interests completely ignores.

The Hon. M.J. Elliott: I will address that when the time comes.

The Hon. C.J. SUMNER: The honourable member will address it, but not in any significant way, because he cannot.

The Hon. I. Gilfillan: How long do you think Skorpos can keep selling under the wholesale price without getting a rebate?

The Hon. C.J. SUMNER: I am not suggesting—

The Hon. I. Gilfillan: You're ignoring the fact that that is the way in which the oil companies—

The Hon. C.J. SUMNER: That is all very well.

The Hon. I. Gilfillan: That's the answer.

The Hon. C.J. SUMNER: That would stop competition in the metropolitan area. I am very pleased to hear the Hon. Mr Gilfillan's interjection, because what he has now come out and said in the Council openly (and we all heard what he said) is that he wants to stop price competition in the petrol industry in the metropolitan area. As usual, he wants it all ways. I thank the honourable member: that is all I need to know. Given his statement, he wants to stop price competition in the metropolitan area, because there is no other option. Even if he is right in saying that the oil companies could stop it, how could they stop it?

The Hon. I. Gilfillan: I have told you how.

The Hon. C.J. SUMNER: How?

The Hon. I. Gilfillan: I explained that.

The Hon. C.J. SUMNER: Explain it again.

The Hon. I. Gilfillan: They don't sell to Skorpos under the price that the PSA has set.

The Hon. C.J. SUMNER: Right, and Mr Skorpos goes to the next oil company, which sells to him.

The Hon. I. Gilfillan: That oil company is obviously not going to stop discounting, because it is—

The Hon. C.J. SUMNER: The honourable member is suggesting that the oil companies collude to squeeze Mr Skorpos out of business—that is what he is doing. He cannot do that. The Hon. Mr Griffin understands, but the Hon. Mr Gilfillan and the Hon. Mr Elliott do not understand. If the Shell Company says to Mr Skorpos, 'We will not give you any rebate because you own your site and you have all that capital investment in your site with a massive volume of product going through,' Mr Skorpos will go to Mobil, to Esso, to Caltex or to Ampol. Does the honourable member think, faced with the proposition of taking Mr Skorpos's business from Shell, that that oil company will not do that?

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: Of course it will take the business, unless all the oil companies get together and agree that they will not do so, in which case Mr Skorpos and the others who are doing this will have them before the Trade Practices Commission as soon as you like. Of course, the end result of all that will be that the consumers in the metropolitan area will no longer enjoy competition in petrol prices, and they will pay substantially more than at present. That proves my point that that is what the Democrats are after.

The Hon. Mr Elliott appears to be mystified by the fluctuations in metropolitan petrol prices, but he should not be mystified. Retail petrol price competition occurs to a greater or lesser extent in every mainland capital city. It is true, however, that in no other city in Australia is this competition either as consistent or as intense as it is in Adelaide. The principal beneficiaries of discounting are, of course, consumers. Adelaide consumers enjoy the lowest average petrol prices in Australia.

The second issue raised by the Hon. Mr Elliott was the price of petrol in country areas. In particular, the honourable member referred to the high price for petrol in the country when compared to the city. No-one denies that country prices appear high when compared with discount prices in Adelaide, but the fact is that during periods of intense price competition Adelaide consumers receive the advantages of being able to purchase petrol at discount prices. Unfortunately, competition between resellers is generally restricted to the metropolitan areas. The wholesale price of petrol to country resellers continues to be limited by the PSA approved price (including the freight differential) and retail margins in country areas are monitored by the South Australian Prices Commissioner.

It is also probably worth noting that country resellers have higher margins than resellers in the metropolitan area, because there is less competition, a lower sales volume and they have higher capital costs.

What are honourable members suggesting in that respect? They are suggesting that the city in some way or other, by a fixed price arrangement, should subsidise the country consumers. Country resellers have a higher retail margin than is available in the city and that also increases the price, but that margin available to resellers in the country, according to the Prices Commissioner, in terms of their cost is not excessive, even though it is higher.

The third point was the effect in the market of commissioned agent sites. In his address, the Hon. Mr Elliott claimed that discounting was part of a conspiracy by the oil companies to wipe out all dealers except their own commissioned agents. I do not believe that that will stand up to examination. The Petroleum Retail Marketing Sites Act imposes strict limits on the number of commissioned agents and company operated outlets for each oil company. The number of sites has been reduced by approximately half since 1980.

Earlier I explained the pattern of retail price discounting in the metropolitan area. The Hon. Mr Elliott's conspiracy theory also runs into difficulty here. On the one hand, he admits that discounting is initiated by what he calls independence (that is, owner-dealers), while on the other hand he believes the oil companies are calling the shots through commissioned agents. He does not seem to know what is happening.

The Hon. M.J. Elliott: I said no such thing.

The Hon. C.J. SUMNER: The honourable member should look at *Hansard*. I now refer to cross-brand purchasing. The Hon. Mr Elliott supports cross brand purchasing as does the Government and the Trade Practices Commission. There is nothing new in this. The Trade Practices Commission guidelines already give dealers the right to purchase up to 50 per cent of their supplies from other sources. In practice dealers have not shown significant interest in cross-brand purchasing. One reason for this may be that dealers recognise the support they receive from oil companies during periods of price discounting.

In regard to automated sites, the Hon. Mr Elliott correctly pointed out that the question of automated sites was considered by the ad hoc committee on petrol reselling, which was chaired by the Hon. G.T. Virgo. However, the honourable member claimed the committee failed to come to any resolution. In fact, far from failing to come to a conclusion, the ad hoc committee unanimously agreed that automated fuel systems should be permitted with the qualification that driveway card acceptors (DCA) be licensed and installed only at sites which are manned for a minimum of 38 hours per week, provided the Minister may authorise a DCA be installed at any other site where, in the opinion of the Minister, circumstances justify the installation.

The next issue in the terms of reference refers to methods of price support. The methods of oil company price support vary between companies. However, in all cases the purpose is the same. The companies give price support to resellers to sustain them through periods of discounting that would otherwise threaten their short-term viability. Price support is important to the oil companies which are anxious to maintain market share and to protect their investment in company controlled sites. The granting of rebates is a commercial decision for individual oil companies and is a natural feature of a competitive market environment.

The next issue is the viability of the retail sector of the industry as presently structured. The retail sector of the industry has emerged from a period of rationalisation. The pressures of several years of price competition have resulted in profitability problems for a number of resellers and poor trading results for the oil companies. At the same time, a number of astute dealers, through prudent investment and aggressive pricing strategies, have taken advantage of opportunities presented by a highly competitive market. Competition at a healthy level is in the interests of consumers and the long-term interests of the industry. I assume that economic forces will take effect eventually to correct the current situation.

The Hon. M.J. Elliott: And prices will—

The Hon. C.J. SUMNER: There has been discounting in Adelaide in the petroleum industry for well over 10 years. It was occurring in 1981 when the Tonkin Government intervened and, in effect, did away with it for over 12 months. But it is occurring presently and the Government is not going to stop it.

I have attempted tonight to put straight a number of misconceptions regarding the petroleum industry in Australia and in particular the retail sector of the industry as it exists in this State. The reality is that the Hon. Mr Elliott,

along with the Hon. Mr Gilfillan, seeks to destroy this competitive environment and deny consumers the benefit of price competition.

If the purpose of the oil companies is to manipulate prices to their own ends, they have been spectacularly unsuccessful. For more than half a decade oil company profitability has been depressed, and industry figures show this position has deteriorated even further during the past year. Inquiries into the petroleum industry is a well worn path. During the past 15 years there have been in excess of 20 such inquiries including two royal commissions, five State Government inquiries, 13 inquiries by the Prices Justification Tribunal, a Senate committee and inquiries by the Industries Assistance Commission and the Prices Surveillance Authority. These inquiries have encompassed all aspects of the oil industry, including petroleum marketing, pricing, divorcement, trading hours, refining, LPG prices, off-shore petroleum resources and taxation on petroleum products.

Clearly a select committee of this Council will not add anything to the inquiries that have been conducted—22 between 1971 and 1986, apart from all the other issues that have been dealt with during that period. The Government therefore cannot support a select committee. I can only repeat that, if the Council votes for the establishment of a select committee, it can only be established with one view in mind, namely, to increase the price of petrol to metropolitan consumers. That is what the Democrats want and that is something the Government will not agree to because it believes that the matter ought to be left to competition in the market so that consumers benefit. In any event, it is highly likely that all we would get out of an inquiry is country consumers paying the same price and city consumers being disadvantaged by intervention in the market, which would reduce competition. That is what the Democrats want: they want country people to pay the same price and they want city consumers to be denied the benefits of the discounting which has existed in this State now for very many years and which exists now. The Government simply cannot support that.

The Hon. I. GILFILLAN: It is customary to hear a certain amount of sanctimonious complacency from the Attorney-General when he is addressing Democrat initiatives, but it is unfortunate that he has been guilty of what I consider to be several offences concerning traditional values of this place and, in particular, a complete denigration of the select committee system. The Attorney assumes that the only purpose of establishing a select committee is to achieve an end result. He knows full well (and this is where he stands doubly culpable) that select committees are set up to establish facts, to provide an opportunity for input from people who may or may not be offended but have the opportunity in a democracy to have a say. Not so the Attorney. What is more, his scriptwriter, who at least put together a large amount of impressive but tedious detail, managed to at least include one aspect of the Attorney's character, namely, centralism—the theme that everything has to be uniform across Australia and that we cannot have an exercise simply in South Australia. There is an addiction to the idea that it has to be neat and levelled off. Some of the statistics quoted were from 1984—they are out of date.

The argument that there is no need for a select committee implies that the Government (if the Hon. Mr Sumner is speaking for the Government) believes we have the best of both worlds in regard to the supply and pricing of petrol. If we ask people who are buying petrol and running their petrol stations, they will say otherwise. There is a Caltex station on the corner near where I live and he is instructed by Caltex to pay 52.7 per litre. He can then get an instruction to charge 47.5 cents per litre. If he does not get his price up and down on the dot, he will carry the can. If there is an established price of 53 cents, and if that is the fair and equitable price, no wonder these oil companies are belly-aching, how can they sell consistently at a price 5c to 6c under the wholesale price?

In what other area of marketing, except perhaps marbles or lollies, would we tolerate this chaos in the marketing of an absolutely basic essential? To me, it is quite irresponsible to allow the marketing of a product to go on as it is—Rafferty's rules. To many people the price they pay for petrol is a staple diet, their livelihood—unlike members of Parliament with white cars who do not care two hoots what the price of petrol is. Some of us have to note the size of the engine so that we know what amount of petrol we will consume. A lot of people in the community are directly affected by the price of petrol; none less than the country sector.

When this speech is dissected and analysed, it will stand as an indictment of the Government's hypocritical stand on decentralisation. The Attorney-General has been carping that country people are getting some consideration. I do not know how much: I think it is precious little. That is what a select committee is for. Shell can put petrol into South Australia from Victoria at a cheaper price than the price for which we can get petrol out of Port Stanvac. Mobil people told me that. Shell petrol goes into Port Lincoln. Theoretically, on the West Coast, petrol can be sold more cheaply if the same system is applied than we can buy it here. But is it? No way. There is this great hefty mark-up because the people in the country can get soaked. There is always an excuse.

To deny a select committee on the pathetic litany of detail that was put up as some sort of denigration of our motives is an insult. If any member has any doubts that a select committee should be established, the fact that there have been 20 in the past is no excuse for not having another. We are still in chaos. We are probably in worse chaos than we were before. A lot of factors must be considered in this, especially for people who are trying to make a livelihood out of petrol stations. The Government is insulting the general population and the structure of select committees if it intends, as the Attorney-General indicated, to fob off the need for a decent, open, honest and thorough investigation into the way petrol is marketed in South Australia. It is a great disappointment to anyone who has become accustomed, sometimes a little optimistically, to look to the Attorney-General for some sort of principled lead in these matters. It is one of the responsibilities of the Prices Surveillance Authority to check the price of petrol. People know that it is an issue of concern to the population of South Australia: it does matter. If it matters that much, why should there not be a select committee? Why should it not be part of the responsibility of the Council to have a look at it? The so-called arguments that have been put up by the Attorney provide, if anything, a more definite backdrop which demands that this select committee be set up.

All I can say is that I hope that members will support this motion and establish a select committee. I understand that the Hon. Trevor Griffin will move an amendment. No doubt he has very serious misgivings and concerns about the way petrol is marketed in South Australia. I appeal to members such as the Hon. Jamie Irwin, who knows full well the disquiet, dissatisfaction and feeling among country people that they are being taken for a ride. If they are not, let there be a select committee to get the facts. If the facts are so reliable and the current position is the best possible,

prove it. The best way to prove it is by a select committee. If this Chamber does not accept this motion to establish a select committee, it is flying in the face of the need for the facts to be revealed to not only country people but city people as well, who are absolutely bewildered when, within one day, there may be a move of 10c a litre in the basic price. The case has been reinforced by the long dissertation to which the Attorney has subjected members tonight. I support the motion.

The Hon. K.T. GRIFFIN: The whole issue of petrol pricing and wholesale and retail practices in the petroleum industry is a very vexed one and, if any evidence was required in the debate so far, it quite clearly indicates the diversity of opinion in respect of petrol marketing and the different assessments as to whether there is a problem in one area or another. The question of petrol pricing practices depends to a very large extent on the perspective from which one views the issue. From the point of view of the metropolitan consumer there is nothing better than to find that petrol can be purchased at something like 45.6c a litre tonight from the STS Service Centre in Hindley Street. There is nothing worse for a person in a country area to find that he or she has to pay in excess of 60c a litre today. There is nothing worse for some lessee of petrol distribution outlets to find that they have to shave their margins to the point at which they just cannot make a reasonable living. Yet, for the owner operated site, there is nothing better than being able to engage in competition to provide, to the metropolitan consumer at least, retail prices which are very low indeed.

Throughout the State, one will see a difference of something like 14c or 15c a litre in the price at which consumers may be able to acquire their petrol. What suits one consumer or one retailer will obviously not suit another. I am not proposing tonight to support anything which will mean that metropolitan consumers will be denied the benefits of cheaper petrol. I want to see some assessment of the way in which rural consumers can get a better deal. There are a number of propositions for doing that. I suppose that one issue is the share of the price per litre that goes to the State and Federal Governments. It is interesting to look at the breakdown of the Adelaide petrol price provided by the Attorney-General as the most common metropolitan price as at 8 April 1987. One can see that, from the Adelaide retail price on that day, 57.9c per litre, the Federal Government collects 27.1c per litre and the State Government through its franchise fee collects 2.5c per litre, making a total of 29.6c per litre, which is more than half the Adelaide retail price on that day. If there is any way by which consumers can get an even better deal, it is for the Commonwealth Government in particular to come to grips with the massive rake-off that it collects from consumers from the price per litre.

The Hon. C.J. Sumner: That was Fraser's policy.

The Hon. K.T. GRIFFIN: It is a Federal Government rip-off from the consumer. It may be that there is some partial justification in the sense that it will deter the use of petroleum products, but I suggest that a rake-off of something like 29.6c per litre to the State and Federal Governments is an amount that is very much in excess of what one might assess to be a reasonable contribution by road users to the Federal and State Government coffers, a good deal of which goes to finance schemes that are unrelated to the motor vehicle industry or to the maintenance of roads.

I suppose that consumers would not be so uptight about prices if they knew that the quality of their roads and all the services which are provided to road users were to be improved as a result of the Federal Government take. Maybe in the area of petrol prices, this is an area which could effectively be addressed.

All of the information which has been provided both here in this debate and in relation to the petroleum industry generally indicates clearly that South Australia is not a State which is isolated from the national petroleum supply and marketing scene. One of the concerns I would have about a select committee is that it focuses only on a limited range of issues and is unlikely to be able to recommend any action which a State Government could take to overcome the different problems perceived by different consumers or retailers, depending on where they reside or carry on their business.

If the Australian Democrats really wanted to achieve something in the area of petrol reselling, I suggest that it would be more appropriate for a select committee of the Federal Parliament to be established which would be able to examine all of the issues affecting the petroleum industry, including marketing, across Australia from State to State, Territory to Territory, and Territory to State, and take into consideration the whole perspective of petrol importing, refining, wholesaling and retailing, rather than the select committee proposed by the Australian Democrats for South Australia alone. I think it has been clearly identified that any solution to any of the problems which individuals or businesses may experience about petrol pricing strategies and policies cannot be achieved by State legislation.

The petrol price control which was tried by the Tonkin Liberal Government, of which I was a part, was a genuine attempt to wrestle with the difficulties which many people in our South Australian community faced in relation to petrol prices. However, it became very difficult to maintain and, as a result, we had to forgo the strategy, which we believed would play some part at that time, in favour of the Fife package, and we believed that there was a much more likely possibility that something could be achieved if the matter was handled at the Federal level.

The Attorney-General has referred to the Federal Trade Practices Act which is now to be reflected in South Australian law by the very Bill that we passed finally today, the Fair Trading Bill, which imports into South Australian law those provisions of the Federal Trade Practices Act which in some ways impinges on pricing activity within the States, but essentially that remains a piece of Federal Government legislation, and one cannot ignore that in dealing with collusion with respect to petrol supply and price maintenance and price fixing.

The select committee in this State, as proposed by the Hon. Mr Elliott, has a wide range of subjects for consideration. I suggest that they would not in fact be capable of resolution by State law and, in fact, would be unlikely to be the subject of any report for a matter of at least several years. I do not think it is an issue that can be resolved overnight, least of all resolved by a State select committee, but the issues are real, for example, cross-brand purchasing; the effect in the market of commissioned agent's sites; the price of petrol in country areas—I believe that that particularly is of concern to the community at large because, as I have said, no-one wants to see the rural areas of our State, particularly in the current economic and rural crisis, suffer the sorts of disadvantages which they presently suffer in respect of the price of fuel, not only at the bowser but on the farm property. It all contributes to the cost of living of consumers across the State.

Maybe something can be done by the Federal Prices Surveillance Authority. Notwithstanding the fact that there have been about 20 inquiries into petrol pricing around

Australia, as the Attorney-General has indicated, I am not averse to the Federal Government requiring the Prices Surveillance Authority to examine yet again the issue of petrol pricing. I say that because there has been some experience in the United States of America about petrol pricing which might be worthy of examination in Australia and might be capable of implementation here.

I am told that pricing at the wholesale level in the United States of America is essentially a two-tier structure. For distributors, wholesalers and jobbers, there is a so-called rack price and for retail outlets, there is a dealer tank wagon price. As I am informed, the rack price is a posted price for a specific distribution location. The price applies to anyone wishing to draw product from that location. There are no union restraints on drawing product direct from distribution locations in the United States of America. The posted price is established in accordance with the marketing conditions in the vicinity of the terminal. Daily posted prices are available by telephone to prospective buyers. A marketing price monitoring service provides daily reports on competitive prices by distribution locations. These rack prices vary significantly across the country and reflect the degree of competition at a distribution location. Companies compete with each other via rack prices at competing distribution locations. Typically, there are no additional discounts off the rack price.

The dealer tank wagon price, I am informed, is a delivered price to retail dealers within a regional marketing area and reflects a charge for delivery from a distribution location. The dealer tank wagon price is common to all lessee dealers in a marketing area. Dealers who own their own sites have available small contractual discounts off the dealer wagon price. Typically these are less than 1c Australian per litre. A marketing price monitoring service is available to provide competitive dealer tank wagon prices.

In summary, therefore, the rack price provides for all product drawn from a distribution location to be sold at the effective posted price with lessee dealers. All product sold to them in a specified marketing area is at the posted dealer tank wagon price, and with owner dealers—

The Hon. C.J. Sumner: Sounds like price maintenance.

The Hon. K.T. GRIFFIN: —purchasing at the posted dealer tank wagon price less a small contractual discount. It is not price maintenance, as the Attorney-General suggests. It provides an opportunity for competition between companies and allows cross-brand purchasing, and there are no trade union constraints as there are in Australia on delivery of product across brands. It may be that the sort of scene which operates in the United States of America could effectively be implemented in Australia through the Prices Surveillance Authority.

I draw attention to those two possibilities because I believe that they are proposals that the Prices Surveillance Authority could effectively consider and they may be found to have considerable merit in the way in which product is priced in Australia and made available to retailers throughout the nation.

The Hon. I. Gilfillan: Why not study that in a select committee?

The Hon. K.T. GRIFFIN: With respect, I do not think that that is capable of resolution within a select committee of the South Australian Parliament focusing only on the South Australian scene. As I said, if anybody is to do it, other than the Prices Surveillance Authority, it should be a select committee of the Federal Parliament because that would be able to look at the position across the nation and would, more effectively, be able to assess the impact of those sorts of schemes within various States across the nation rather than just focusing on the South Australian scene. It is important in the area of petrol product supply that we take the global picture and then relate it to the South Australian situation.

If a select committee of the State Parliament were established, we would have to be convinced that there was some remedy which the select committee could propose which would operate in this State without disadvantage to the metropolitan consumers (who presently benefit) but would provide some advantage to the rural consumers (who are presently disadvantaged), and would provide some greater level of competition in the availability of product to retailers.

I am in favour of select committees where there is a prospect that they will achieve some results. One of the most recent select committees in which I have participated, one which went for 2½ years, was in relation to *in vitro* fertilisation and related procedures. We went into that because it was an issue of very grave concern that could be resolved, to a very large extent, by South Australian parliamentary or governmental action.

We had the select committee in relation to the Planning Act (which has reported) which focused on a South Australian issue. We also, several years ago, had the select committee in relation to the Wrongs Act, which dealt with an issue which was to be the subject of legislation in this Parliament; and there are countless others. Some of them, like the select committee in relation to energy needs, focus on something specifically South Australian. However, I would suggest that maybe that select committee has really bitten off more than it can chew, as was the case several years ago in relation to the select committee concerning nuclear energy.

The Hon. C.M. Hill interjecting:

The Hon. K.T. GRIFFIN: Carrick Hill is again another issue which can be resolved at the South Australian level.

The Hon. C.J. Sumner: What was the Democrats attitude to the select committee in relation to Carrick Hill? Unnecessary.

The Hon. K.T. GRIFFIN: Unnecessary.

The Hon. C.J. Sumner: Did they oppose it?

The Hon. K.T. GRIFFIN: They opposed it.

The Hon. C.J. Sumner: They divided too, didn't they?

The Hon. K.T. GRIFFIN: Well, the Attorney-General is seeking—

The Hon. C.J. Sumner: Was it just a few hours ago that the Democrats opposed a select committee on an issue of concern to South Australia?

The Hon. K.T. GRIFFIN: The Attorney-General is making his point by way of interjection. I do not think it is necessary for me to comment on them. The point I want to make is that although I had very strong sympathy for the issue which is the subject of this motion and the subject of debate, I do not believe that it is an appropriate mechanism to come to grips with the problem and be able to resolve it, either by legislation or some other initiative. I know that there is a lot of concern in the community about it in the retailing area. Members may well have received a letter from a particular dealer which states:

> I believe that the existing situation will remain so long as dealers are effectively precluded from buying their petrol on a competitive market. Presently only freehold dealers have that right. The rest of us are effectively banned by the actions of the Transport Workers Union acting in concert with the oil companies. They have an agreement which, if not illegal, is absolutely immoral. As retailers we are expected to abide by a code of conduct we have no say in drawing up. Hardly a democratic situation! I refer, of course, to the so-called Laidley agreement.

That is the view of one dealer. A Mr Colin Drennan of the Ampol service station on Burbridge Road, Hilton drew

attention to the escalation in operating costs for retailers during the past seven years and also the relative prices of fuel. He compared the rebates that were offered by companies and pleaded for some action to be taken that would help small retailers.

Now, there are those competing interests and claims and, as I have indicated, it is my view that they can be most effectively addressed at the Federal level. I have on file an amendment to the motion. On reflection it ought to be put as a substantive motion, depending on the outcome of this motion, which relates to a select committee. For reasons I have indicated the Opposition is not prepared to support this motion, not because we do not believe that something ought to be done to try to achieve equity, but because we do not believe that a select committee will be effective.

On the other hand, that motion having been dealt with, I would then be taking the step of seeking to suspend Standing Orders to move what I have presently on file as an amendment—a substantive motion which could identify the concerns listed in the four paragraphs of the preamble and then, as a Council, urge the State Government to do all in its power to ensure that the Commonwealth Government is forced to face up to its legislative responsibilities to resolve the anomalies in petrol wholesaling and retailing, and require its Prices Surveillance Authority to review urgently the whole basis for fixing wholesale pricing of petrol in the context not only of the rack pricing and the dealer tank wagon pricing systems in the United States of America but other concepts which might provide even more competition in the supply of fuel to retailers and to the wider community; and to balance effectively the competing interests of consumers and retailers and the competing interests between retailers and between consumers. It is on that basis, and in the light of that foreshadowed substantive motion, that I regret that we are not able to support the motion for a select committee.

The Hon. PETER DUNN: I might have supported this select committee up until today but I have now seen what the Government did to its backbenchers. This afternoon it fairly ran over them with a steamroller, and ran them ragged. A select committee came down with a report—and the Attorney would have been a party to this—and it just galloped over the top of them and put them at odds with the decision of the Premier to sell SAOG through Sagasco. For that reason alone I think that a select committee would not work. It just cannot cover a wide enough area to handle the problem that is at hand. I am not worried about what is happening in the city because I think that that is to the benefit of city people; it is fine if there is discounting in the city, and I do not disagree with that.

My argument in this debate is that people who have to live in the country have to get to town to get their goods to market, and bring home the goods that they purchase, and they have no alternative but to pay high prices for petrol or other petroleum products—petrol, diesel and aviation fuel.

As I purchase a large amount of aviation fuel, I am surprised that there is less variation in the price of that fuel at, for instance, Ayers Rock—Yalara—than there is in the wholesale price of petrol. I am always surprised at such a variation on the price of petrol. I suppose it results from the discounting in this State. As I have pointed out, the country has no alternative but to use the product. I believe that the Prices Surveillance Authority should comment. The Attorney read out its findings in 1984 in regard to the extra cost of petrol in the country. I am not sure from where those figures were obtained.

The Hon. I. Gilfillan: You would find out in a select committee.

The Hon. PETER DUNN: Are you going to get interstate people from the PSA to come and wait on the committee? I do not believe that that information is correct. The PSA has defended its judgment. I doubt that it is correct about the extra cost of delivering fuel, because these days every rural property buys its fuel in bulk. I purchase my fuel in lots of 1 000 litres, which is a relatively small amount. Most country retailers have reserves equally as large as many city distributors. Their holding capacity is probably greater than that of city distributors, and it was interesting to note that during the 1982 petrol drought in this city, when there was such a schemozzle and no-one could get fuel, there was little fuel shortage in the country, mainly because there was considerably more storage per head of population.

All that leads me to believe that the distribution of fuel occurs much less often. I purchase fuel perhaps twice a year, and so I believe that the cost of distributing is low indeed. Certainly, I am prepared to pay a little extra for that freight and I do, but I do not get the benefit of the company discounting provided to the retailer that the city person gets. I suggest that the PSA—

The Hon. C.J. Sumner: Perhaps there should be discounting in the country. Get your retailer to do a bit of discounting.

The Hon. PETER DUNN: I will come to that shortly and deal with how country people are trying to overcome that problem and get a small amount of discount. They obtain a discount at considerable effort, much more than is required here in the city when one drives to work and sees petrol, as it was this morning, at 46.9c, while at Whyalla it would be about 61.2c. The PSA could look at that problem of variation of the wholesale price offered to city distributors and country distributors.

Country people do not mind paying add-ons, which the PSA said were there. I do not mind paying it because it is fair and reasonable. However, what irks many country people is that they do not get the opportunity to share the discounting of wholesale prices that is offered to most city people. That is unfair. There is much less competition and therefore wholesale discounting is not triggered to the same degree. Members will remember that, when we passed legislation dealing with unleaded petrol, we included specific provisions to allow some places not to sell unleaded petrol, because there was no competition in certain towns—there was no other bowser. There was only one make of petrol and so there were not adequate facilities. Operators had one bowser and did not have the facilities to supply unleaded petrol. As I said, there is not the competition to trigger a wholesale discount war. I believe that the PSA ought to look at that and say that, if some discounting is being offered in the city, there should be some in the country, although perhaps not to the same extent. I note on Eyre Peninsula that all of the Shell company's fuel is distributed through two distributors. The accounting system goes through one wholesaler in Port Lincoln who distributes to the whole of Eyre Peninsula. A fair quantity goes through his distribution network. He purchases trucks and supplies drivers on contract who operate the service for him. Certainly, I cannot see why oil companies cannot offer some of that wholesale discount to country wholesalers, as is offered in the city.

If discount is offered to city purchasers, I do not believe that the PSA should say that costs are so great in the country that such a system cannot apply to the wholesale price. Some country people are endeavouring to overcome this problem by aggregating their consumption and forming small

cooperatives. Half a dozen people who can store fuel on their properties get together and obtain a price for 20 000 litres of petrol. That attracts a small amount of discount.

More and more of this will be done to try to overcome the present high prices. It will not solve the problem in the bigger towns—Port Augusta, Port Pirie and Whyalla—because people in those towns cannot purchase and store large quantities of flammable liquids. It is illegal to do so. They are disadvantaged in that sense. These people can only purchase petrol through the normal retailer in the town and, depending who is there, the retailer often has the sole right to sell that fuel. Therefore, the purchaser has no choice other than to drive elsewhere to purchase fuel at a discounted price.

People in country towns can be at a disdvantage. Rural producers can get some advantage through small discounts—1c or 2c a litre—but it certainly does not match the discounting that goes on in the city. The Hon. Mr Griffin hit the nail on the head when he talked about 29c-plus being taken out by Federal and State Governments.

This present Federal Labor regime is the highest taxing Government that Australia has ever had. The Attorney knows that he is part and parcel of that and that it is his colleagues in Canberra who are ripping off the motorists, particularly country people. They know that they cannot avoid it and, per head of population, they spend much more on fuel because, given that they live in the country, they must travel to and from different towns to do their weekly shopping, purchase parts and sell product or stock. They must pay that tax of 29c plus.

Labor Governments are great at breaking their promises. We recall distinctly that, under the bicentennial project, 5c per litre was added to the price of fuel and we were told that that money would go towards repairing roads, particularly in country areas. That certainly happened and, when there was inflation, it was said, 'We will add inflation,' but the inflated part of that sum went into Consolidated Revenue, having nothing to do with the construction of roads or making facilities better in country areas for those people who pay the most. Because they use more fuel, they pay more tax. None of that money is coming back. In fact, I see it going towards things like the Hilton Bridge and the construction of roads in the city.

Good heavens! Last year from its own purse the State Government funded only 14 kilometres of sealed road, and that is a terrible indictment. I believe that the Federal Government, through the Highways Department, constructed more kilometres of road than that but, even so, it was minuscule compared with what could be done. Last night I attended two meetings on Eyre Peninsula: of the 210 kilometres I travelled, about 180 kilometres was on dirt roads. That is terrible in this modern day and age when we have television, when we are transmitting signals around the world, and when we send men to the moon, but we cannot construct a black strip—a highway or a main road—in the country.

That may occur on Kangaroo Island where the Hon. Ian Gilfillan lives, because it is rather small and highly productive. On Eyre Peninsula productivity is probably less per hectare but nevertheless, because of its enormous size, Eyre Peninsula contributes significantly to the State coffers. But we seem to suffer a terrible lack of sealed roads. Anyone who has owned a motor car in that area knows the enormous cost of running a car on a dirt road: the cars rust and wear out within 100 000 kilometres.

The Hon. I. Gilfillan: Make that a term of reference for the select committee.

The Hon. PETER DUNN: There is no reference to that in relation to this select committee. That points to the enormous costs incurred by those people and it is an indictment that this enormously high taxing Government which the Attorney-General supports is adding another 29c. I must say that a select committee cannot cure that problem. It is a Federal problem. The Prices Surveillance Authority must look more closely at discounting city and country prices. They certainly make no reference to country prices, and I believe that that problem should be addressed.

Therefore, I support the Hon. Trevor Griffin's endeavour, because that addresses the problem at hand. Until today I might have considered that a select committee would be effective but, after seeing what happened, I do not believe that the Government would take any notice of a select committee and would just run ragged over its recommendations, as it did today. Therefore, I cannot support the establishment of a select committee, but I support the substantive motion moved by the Hon. Mr Griffin.

The Hon. M.J. ELLIOTT: It became quite clear to me some weeks ago that I would not obtain support, and I believe perhaps the best indication of that was that the petrol companies did not contact me. Usually, when this sort of issue comes up and they think there is any chance of anything happening, they are on our hammer. I found that quickly when I introduced the Chlorofluorocarbons Bill.

The Hon. I. Gilfillan interjecting:

The Hon. M.J. ELLIOTT: That is right, but the petrol companies were extremely confident from the beginning that neither the Government nor the Opposition would support the setting up of a select committee, and they sat pat. Certainly, there was a great deal of support from local government and petrol retailers.

Members interjecting:

The PRESIDENT: Order! There is too much audible conversation.

The Hon. M.J. ELLIOTT: I was rather bemused by the Minister's inane contribution tonight. He went so far as to say I knew not what I was talking about, but then he read virtually every word he said. He had some little pedant sitting upstairs in his office spewing out that nonsense—and it was nonsense—and then he had the gall to suggest that I did not know what I was talking about. I would hate to think that the Minister actually claims authorship for that nonsense he brought forth tonight.

The Hon. C.J. Sumner: I do, and it is quite right.

The Hon. M.J. ELLIOTT: Absolute tripe! If anything, it demonstrated the need for a select committee. In the contributions we have heard tonight there has been a great deal of contradiction. If we talk to the people involved in the industry, we will find that there is far more contradiction. I had a most enlightening conversation with a member of the Liberal Party in the other place who was a petrol wholesaler in a country area, and some of the tales he recounted to me about the practices of oil companies were quite mind boggling and highlighted the sorts of issues that really should be brought before a select committee.

The Hon. I. Gilfillan interjecting:

The Hon. M.J. ELLIOTT: I guess he has been rolled by the numbers. Whoever are the string pullers in the Liberal Party, they said, 'No, this is not to happen,' for whatever reason, and that has been the determination. The Minister was absolutely amazing when he brought forth the list of 22 different inquiries that have been held. But when I looked at the list I realised what a farce it was. The first

item on the list was an inquiry into offshore oil resources. That has nothing whatever to do with this inquiry.

Going through the list, one finds that most of the inquiries were totally irrelevant or were committees that had no real substance, such as the internal working party that the Government—or, essentially, the Minister—set up last year comprised of two oil company representatives, two representatives from the retailers, and Geoff Virgo. Surprise, surprise! The retailers, outnumbered three to two, were rolled convincingly. That was one of the great reports cited by the Minister as being a reason why we do not need another inquiry. If we go through that list of inquiries we find that in fact there have been very few substantial inquiries at all, so what the Minister said was absolute nonsense.

The Minister referred to the Fife package. It is worth noting that the Fife package went only half way and I believe it indicated that the intention always was that eventually divorcement would be total. There was a reduction in the number of company sites from 900 to 400. But what the Minister has not addressed is what has happened to the total number of sites generally. I believe that everyone would be aware that there has been rationalisation in the industry so, in terms of the percentage of sites owned by oil companies, we find that very little has changed.

More importantly, the company owned sites—particularly the commission agent sites—tend to be strategically placed. Shell, through 14 of its sites, sells 30 per cent of its petrol sold in Adelaide. What has divorcement done to Shell? It has offloaded the stations that sold very little in any case and has managed to increase its stranglehold on the market in the process. Therefore, the Fife package did not achieve anything at all. It went only half way. Until we start to consider total divorcement, we will never find a solution.

After his incredible carry-on about the escalation of prices in South Australia, he went on to say that, with divorcement, independents will compete and prices will go down again. That is an amazing inconsistency in a matter of only four or five minutes. I believe in competition and that prices would stay down in the metropolitan area. However, if the proper things are done (I would like to leave it to the select committee to decide what they are) prices will stay down in the long term. What is likely to happen here in South Australia is what has happened in certain States of the United States and some parts of Europe where oil companies have effectively squeezed out the independents totally. Having done that, they have control of the market and price competition disappears. That will be the inevitable result of what will happen in South Australia. Once all but a few of the larger independents have gone, there will not be competition and anyone who believes otherwise is not really facing the facts. It is for that reason that the United States has tried to implement strong anti-monopoly legislation, which is something that Australia has in theory but, when one considers recent media events, one realises that Australia does not have it in reality. Labor Governments are more to blame than Liberal Governments in setting up monopolies. It seems that big business goes along with big unions, and that is a better way for the world to be run, according to what used to be called social democrats. I do not know what they call themselves now. They are pragmatists of the worst sort. They could not care less about the genuine small businessman.

The Hon. C.J. Sumner: Is Mr Skorpos a small businessman?

The Hon. M.J. ELLIOTT: He wants an inquiry. He rang me. He would love to go before a select committee. He wants a select committee. Do not give me that tripe.

The Hon. C.J. Sumner: There is absolutely no doubt that he does not.

The Hon. M.J. ELLIOTT: Mr Skorpos rang me and asked for a select committee.

The Hon. C.J. Sumner: Not with the aims that you have in mind.

The Hon. M.J. ELLIOTT: He read the thing. He said that he has many things that he wants to put before the select committee. The oil companies say that this fellow is causing the war. That is absolute nonsense. He wants to point his finger at the oil companies very strongly. The retailers are very much in favour of divorcement. They believe that it will bring about real competition whilst offering protection from the monopolies. That is only a fair thing to expect. I am not just looking at the question of country petrol prices. I am looking at whether small business has a place in Australian society. It is for the same sort of reason that I did not support the abolition of the Egg Board: I knew very well that a monopoly or an oligopoly would develop very quickly in that industry because of its structure. That is increasingly the case in the oil industry. It is about time that people stopped talking about doing something for small business and actually did something. This Government and, it appears, the Opposition talk and do nothing at all.

The Minister talked about the price increases that occurred at the time that Tonkin intervened, but he failed to address the causes. When the intervention was removed, the price did not go back down. Other forces were at work in the market which coincided with the Tonkin intervention. It certainly scared them off, but anybody who knows anything about the industry knows that the intervention itself did not cause the price rise. It would take a liar to suggest otherwise.

The Hon. C.J. Sumner: You are displaying your ignorance. It is astonishing.

The Hon. M.J. ELLIOTT: I do not have to read my speeches.

The Hon. C.J. Sumner: I don't know what you are talking about.

The Hon. M.J. ELLIOTT: It was a very amusing speech, but very far off the track. Passing the buck to the Prices Surveillance Authority is exactly that. The national bodies generally tend to do less. They are further away from being in touch with reality than are the State bodies. The big problem for the State Government is that people often cry for something to be done about petrol prices, and by passing the buck to the PSA it turned the issue away. It became virtually non-political. It was a very handy place to put it. The PSA has been totally ineffective, apart from the last price determination when it refused a wholesale increase because of the amount of discounting that was occurring. For the first time, the PSA recognised that the size of the discounting is an indication that the wholesale price is and has been for some time artificially high.

Who subsidies whom? The Minister dodges that question or, at least, tries to dodge it. The simple fact is that, for the last 12 to 14 months that I have been in Adelaide, I have been able to buy petrol on average at 11c or 12c below the price that I was paying for it in Renmark. If one allows for the 1c freight differential and an extra 2c or 3c a litre because retailers in country areas do not have the same turnover and degree of competition, one is talking about 3c or 4c as a reasonable difference, perhaps even 5c or 6c. What is happening now is not simple competition. Other things are at work.

The Hon. C.J. Sumner: What are you going to do about it?

The Hon. M.J. ELLIOTT: I was trying to get a select committee before you wanted to cut the thing right off.

The Hon. C.J. Sumner: You think you know so much about it. You should have some idea of what you are going to do.

The Hon. M.J. ELLIOTT: I have some ideas but I want a select committee to go right through the figures. It has the capacity to call evidence. It would be useful to have a couple of backbenchers who can listen and make up their mind on the basis of the facts, as with the energy committee. Today in this place the Government has very amusingly rolled its backbenchers. Backbenchers had the opportunity to examine evidence over quite some time. The Government has gone ahead and done something else. The Government does not like to see backbenchers thinking too much. That would be a nuisance, particularly for a Labor Government, which works from the top. The whole Party works from the top. It is not a democratic Party in any sense. It is a farce and a sham in a democratic society.

The Hon. I. Gilfillan: Don't be too hard.

The Hon. M.J. ELLIOTT: It is true. The Minister tried to talk about costs of $30 million which could be attributed to country areas and, to get that in proportion, if you talk about the total turnover of petrol in South Australia, you are talking about something less than 1c a litre or a fraction of a cent a litre. When one considers the real wholesale price paid in Adelaide as distinct from the PSA wholesale price, that fraction of a cent one way or the other does not make much difference. The suggetion that the metropolitan area subsidises the country area is wrong; it could not be said to be anything else.

The Attorney-General moved on to the question of profitability of oil companies and how that has taken a dive. I did not believe that Labor Party people could be so naive. Oil companies make their profits in a number of ways. Profits can be made at the refinery or through bringing in oil from offshore. Many suggest that all the oil companies do is off-load petrol at a reasonable sort of return and attempt to make their real profits out of the pricing transfers that occur overseas. To talk about the profitability of Shell or BP in Australia is a nonsense to anybody who understands the way international markets work. I would have expected the Minister to do better than that.

The Hon. C.J. Sumner: You do not have a clue. You haven't even vaguely investigated the matter. Good Lord!

The Hon. M.J. ELLIOTT: I have probably spent as much time as the Minister has in the last couple of years.

The Hon. C.J. Sumner: I have been involved in it for the last eight years and I probably know more about the petroleum industry than does anyone else in the Parliament.

The Hon. M.J. ELLIOTT: Why did the Minister's speech not indicate that? He must have spent eight wasted years. In the light of the tripe that he served up today, he has not got very far. When his speech is circulated among retailers, they will find it highly amusing, if they could find it a laughing matter. I am not sure that they will. Looking at the large independents which are accused of being responsible for it, there was never any suggestion that the oil companies needed to get together to collude to stop the price war.

The simple fact is that, if by selling petrol to Skorpos for about 42c a litre they will go broke in the process, what sort of business people are they? Do you actually fight Caltex or BP or Amoco for the right to sell the stuff to Skorpos for 42c so that you yourself go broke? You do not need to collude. If you know that by selling at a low price you will start a price war, you will not do it. As I said, the oil companies do have the power to control these price wars to an extent. If they do not sell that cheaply—it is not a matter of collusion—the price war does not happen.

The simple fact is that the price war suits them down to the ground. Twenty-four hour trading has just been introduced by the Government, after a committee. The retail traders, by the way, did not argue; they were rolled once again. The Government set up the committee with two oil company representatives and Geoff Virgo, so it could only come up with one conclusion. With the 24-hour trading and some of the other things likely to come out soon, that suits the oil companies right down to the ground. The Minister could not do a better job for them if he were working for them. I do not believe for a moment that those large independents are leading the price war. It is very handy to have them there because they can have the finger pointed at them as being responsible for it.

I was disappointed that the Hon. Mr Griffin wants to refer this to never never land by asking the Federal Government to please do something, because the simple fact is that petrol around the corner from me at the moment has been retailing remarkably cheaply for quite some time. The retailers at this stage have been subjected to all sorts of practices by the oil companies—and that is another thing I wanted looked at—that are absolutely atrocious. Not only are the wars being started by the oil companies, but they insist that everybody goes in it. Retailers have the option of continuing to sell at 57.9c and selling nothing at all, so they have no choice but to go in. While those people are involved in the price war, they are told what the wholesale price is and what the mark-up is. Also, the moment oil is delivered, they have to pay cash on delivery for that oil which they sell at a mark-up of 2c a litre or less. If we went further into the practices, members would be absolutely appalled.

However, we will not look at that because that is swept away. That is certainly not something which would be passed on to the Federal Government. There are a number of issues here which the Federal Government and the PSA would never look at in a million years. There are a number of trade practices which are best looked at here in the South Australian context because, as we become more distant—and I would have thought that the Liberal Party understood this—and move away from the people as you go to the top of the Federal system, you lose contact with them.

I do not see how the Liberals believe that there will be any action in the foreseeable future. Because of these bad practices, I ask: how many people will go broke? It is one thing to talk about the competition, and say that is the way free enterprise goes, and some people go broke. However, these people are not going broke because they are incompetent: they are going broke because of manipulation—nothing more nor less, and we are saying bad luck to them. We will pass this off to the Federal Government, which in fact will not do anything about it at all.

I suggest that if we looked at some of these questions, such as cross-brand purchasing, we may have been able to help the country consumer without affecting the metropolitan consumer one bit.

The Hon. C.J. Sumner: Are you suggesting that discounting should continue in the city?

The Hon. M.J. ELLIOTT: I have not suggested for a moment that there should not be discounting. I believe that discounting will continue in the metropolitan area. It will continue, but probably not at the present level. I said at the start—if the Minister bothered to listen to the whole context of the speech—that discounting will continue, but if it continues at the present level, we will lose it entirely. We will lose it entirely because we will lose all the independent

traders. We will lose it totally because, when the oil companies have achieved their end, there will be no discounting at all. The Minister knows that very well. If, on the other hand, we do have perhaps total divorcement as one of the things that can occur, discounting will go on. It will not continue to the same depth but the important thing is that it will be ongoing and will not disappear in a couple of years. It is as simple as that.

With at least three-quarters of the petrol being sold in the metropolitan area, quite a significant drop in prices in country areas would have very little impact in those areas, and that is obvious to anyone who understands simple arithmetic, but once again I doubt whether the Minister would understand that. The country consumer would have the possibility of much lower prices if true competition got out there, but competition is not occurring because, although it is theoretically possible for cross-brand purchasing to occur, it is not. Somebody needs to ask why cross-brand purchasing is not occurring. Part of the answer is to do with union black bans.

I am a strong supporter of unions, and I will probably stand in this place for many years and support them. However, I will not support them when they are doing things which are blatantly wrong, and the sort of practice they are carrying out at the moment in relation to cross-brand purchasing is wrong. It needs to be addressed, and I think a select committee is the place to address it. If cross-brand purchasing did occur, we would find the agents in the country areas would be playing the oil companies off against each other to get the best price, in a way similar apparently to the way that Mr Skorpos is able to do it.

The Hon. C.J. Sumner: I thought it wasn't Mr Skorpos doing it.

The Hon. M.J. ELLIOTT: I am trying to be consistent by you, because you will not accept me.

The Hon. C.J. Sumner interjecting:

The Hon. M.J. ELLIOTT: I was wanting to accept your argument for a while as you obviously did not want to accept mine. You cannot have it both ways. The commission agents undoubtedly will be capable of getting a much better price because they will be able to play the oil companies off against each other. That is the way the market should be working. It should be a buyer's market with the people trading off oil companies against each other. Now the oil companies, with the collusion of the unions, have the industry sewn up for their own purposes. We will see lower prices in country areas if the wholesale price is reduced, for which I believe there is a capacity. The size of the discounting in the metropolitan area indicates that at the moment. We will also see lower prices if we see issues such as cross-brand purchasing adequately addressed. We see no indication that the Government is willing to do that at all.

As I said when I began, it has been quite clear for some weeks now that the Government and the Opposition were not going to lend support here, for different reasons. The Government's reasons have been totally flimsy, as the Minister has quite clearly demonstrated tonight. The Opposition wants to pass it off to some vague 'please let's ask the Federal Government to do something'. I find that extremely disappointing. I feel that it is a cop-out to the small traders and to people in the country. The suggestion about the metropolitan area being severely affected if we have an inquiry is absolute nonsense. An inquiry itself does not have the capacity to set prices. If the inquiry, on the other hand, brings forth information which suggests that certain action should be carried out, that is up to the inquiry to suggest. Clearly, it is up to the select committee to come up with the answers. I have been willing—

The Hon. C.J. Sumner: You know that everything you have said here is only one result of a select committee. That is the absolute hypocrisy of you lot—

The Hon. I. GILFILLAN: I rise on a point of order, Ms President. Could I ask you to rule that the Attorney-General has already spoken—

The PRESIDENT: Order!

The Hon. I. GILFILLAN: I am sorry that I had to shout, Ms President. I did not want to shout; I would much rather speak in my ordinary, modulated voice. Unfortunately, the Attorney has this compulsion to continue shouting in this debate. He has spoken. Could I ask you, Ms President, to at least ask him to restrain the volume at which he interjects and, preferably, wipe it out altogether.

The PRESIDENT: Actually, I have no control over the volume, but I do have control over the interjections. I suggest that interjections cease so that we can vote on this motion.

The Hon. M.J. ELLIOTT: While I have suggested certain things which may need to be done, I think that it would have been the responsibility of the select committee, on the basis of information that came forward, to ultimately make the final suggestions. For the Minister to presume that a select committee would come up with particular suggestions and, further, that the Government would carry those out and that they would lead to increases in prices in the metropolitan area is drawing an extremely long bow.

It is usually easy in this place to tell when the Attorney is on the defensive because he interjects incessantly and, usually, inanely. I urge the Opposition to reconsider its position because I think it has not put sufficient thought into it. It must realise that passing it off with the simple request to the Federal Government to do something will not result in anything being done. If the Opposition is fair dinkum about doing something about the matters that I have raised, it would support the motion.

The Council divided on the motion:

Ayes (2)—The Hons M.J. Elliott (teller) and I. Gilfillan.

Noes (14)—The Hons G.L. Bruce, M.B. Cameron, T. Crothers, L.H. Davis, Peter Dunn, M.S. Feleppa, K.T. Griffin, C.M. Hill, J.C. Irwin, Diana Laidlaw, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), and G. Weatherill.

Majority of 12 for the Noes.

Motion thus negatived.

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

That—

1. recognising the real concern among petrol resellers about the grave inequities in petrol discounting and hardships which that creates for them;
2. recognising this disadvantage suffered by rural consumers and resellers in the current petrol discounting scene *vis-a-vis* metropolitan consumers and resellers;
3. recognising that the petrol pricing policies of oil companies and the ownership of reselling sites by those companies is a contributor to anomalies in the petrol reselling system; and
4. recognising that the only solution to the inequities and disadvantages rests with the Commonwealth Government and its Prices Surveillance Authority,

this Council urges the State Government to do all in its power to ensure that the Commonwealth Government is forced to face up to its legislative responsibilities to resolve the anomalies in petrol wholesaling and retailing and require its Prices Surveillance Authority to review urgently the whole basis for fixing wholesale pricing of petrol.

I do not believe that it is appropriate to debate this motion at length. The issues have already been canvassed in the motion that has just been negatived. Suffice to say that this motion seeks to acknowledge concerns that are evident in the wider South Australian community and to place the responsibility where it firmly lies, namely, with the Com-

monwealth Government and its Prices Surveillance Authority.

I have indicated two areas which might be the subject of consideration—rack pricing and dealer tank wagon pricing in the United States of America. These might bear close scrutiny and be appropriate for introduction into the Australian wholesaling and retailing systems. In view of the fact that this debate has already been canvassed at some length and that all the arguments have been put, I believe that my case in favour of this motion should rest at this point.

The Hon. M.J. ELLIOTT: This motion is a motherhood motion; it is one with which no-one with any sense could disagree. It is a bit like saying that we think all people should stop bashing their babies and stop bashing them immediately, if possible. We support the motion but doubt its effectiveness. Obviously, we felt that a select committee was the only way to try to get some real action. The Opposition has opted for a motherhood motion which says a little but does nothing at all. We support it because of the lack of anything else to support at this stage.

The Hon. I. GILFILLAN: This motion is similar to a platitudinous motion about the parklands, and is a cop-out. It contains nice words and has absolutely no chance of having any effect. It contains the other inconsistency about which the Hon. Trevor Griffin argued against in relation to setting up a select committee—that nothing can be done on the State scene by the State Government.

In fact, this motion urges the State Government to take action. It is a motion applying to the Government of this State. It would have been much more effective to support the proposal for a select committee. I do not understand why the Opposition chose not to support that motion. This motion has nice sounding words but it backs away from any effective action behind the wishes.

Both the Government and the Opposition are quick with the facile statement, the easy word, comment and phrase which sounds good and which then tails off with a whimper. There is absolutely no muscle in this motion to have any effect at all. I will be interested to see whether the Government supports the motion because, if either the Labor Party or the Liberal Party support the points made in paragraph 4, it is difficult to understand how they can justify to the South Australian electorate their refusal to allow a select committee to be set up to do something about those aspects.

Obviously, this is a very pathetic option, but the wording cannot be argued with and I regard it as being of little consequence either to oppose or support it.

The Hon. K.T. GRIFFIN: My motion really places the responsibility where it firmly rests, that is, with the Commonwealth Government, and that is where the legislative powers rest. No select committee could have effectively proposed a solution that would be within the control or power of the State Parliament or the State Government. That is the issue that has to be recognised as the core of this motion.

Motion carried.

SOUTH AUSTRALIAN HEALTH COMMISSION ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

WRONGS ACT AMENDMENT BILL (No. 1) (1987)

Returned from the House of Assembly without amendment.

CRIMINAL INJURIES COMPENSATION ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT (STATUTE LAW REVISION) BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

CREDIT UNIONS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

[Sitting suspended from 11.5 p.m. to 12.2 a.m.]

RETIREMENT VILLAGES BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 12.3 a.m. the Council adjourned until Tuesday 12 May at 2.15 p.m.