LEGISLATIVE COUNCIL

Tuesday 23 July 1996

The PRESIDENT (Hon. Peter Dunn) took the Chair at 2.15 p.m. and read prayers.

DE FACTO RELATIONSHIPS BILL

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

That the sitting of the Council be not suspended during the continuation of the conference on the Bill.

Motion carried.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Education and Children's Services (Hon. R. I. Lucas)—

Regulation under the following Act—
Competition Policy Reform (South Australia) Act 1996—Savings and Transitional
Response by Minister for Mines and Energy, Minister for Health and Minister for the Environment and Natural Resources to the Environment, Resources and Development Committee Report on Roxby Downs Water Leakage

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

Regulations under the following Acts—
Business Names Act 1996—Fees
Daylight Saving Act 1971—Dates
Racing Act 1976—Rules—
Harness Racing Board—Offences
SA Greyhound Racing Authority—
Registration of Clubs

By the Minister for Transport (Hon. Diana Laidlaw)—

Regulations under the following Acts—
Local Government Finance Authority Act 1983—Other Bodies
Prevention of Cruelty to Animals Act 1985—Electroimmobiliser
Road Traffic Act 1961—Declaration of Hospitals
Water Resources Act 1990—Penrice Exemption
West Terrace Cemetery Act 1976—Fees
Corporation By-laws—Port Lincoln—
No. 1—Dog and Cat Management
No. 9—Council Land
No. 11—North Shields Garden Cemetery
District Council By-laws—Yorketown—No. 2—Moveable Signs.

QUESTION TIME

EDUCATION, QUALITY ASSURANCE

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about the Quality Assurance Unit.

Leave granted.

The Hon. CAROLYN PICKLES: In his press release of 19 February, the Minister announced that a survey of parents and students of 50 per cent of schools and preschools in South Australia would take place as part of a new quality assurance framework. My questions to the Ministers are:

1. How many schools have conducted these surveys, and what will be the annual cost?

2. What analysis is DECS undertaking of the results of these surveys; for example, what will DECS do with the results of the question, to be answered on a scale of one to five, 'My child's reports are informative'?

The Hon. R.I. LUCAS: I will have to get some information for the honourable member. Certainly, to my knowledge, 50 per cent of schools and Children's Services sites would not have conducted such surveys, and I would to try to pursue information about the exact number. As to how we will make use of the information, clearly it will be part of the total package of information that is available to the Government.

We have conducted surveys on the quality of school reports in a number of areas. Two local university academics have conducted a survey of about 600 or so parents from a majority of South Australian schools, and I would have to get the detail of the breadth of the survey. They expressed support for the sort of information with which they were provided through the basic skills test and indicated that it was different from the sort of information that was being provided from the school.

My gut reaction would be that the majority of parents would be happy with the information provided from school reports. Of course, this does not mean that they do not welcome the independent information being provided through the basic skills test or, indeed, any other mechanism. From personal experience, parents are delighted to get whatever information they can about the progress and achievements of their children, whether that comes through normal teacher or school reports, independent assessments, or something such as the Westpac test and other tests in which a number of Government schools are encouraging their students to participate. That is another example of the comprehensive package of information that can be provided to parents about the progress of their children. Obviously, I would need to take some advice on the detail of the question and bring back a reply as soon as I can.

The Hon. CAROLYN PICKLES: As a supplementary question, would the Minister be prepared to make public the results of the survey?

The Hon. R.I. LUCAS: I would be cautious about doing that. These surveys are being conducted by individual school communities. Obviously, our schools will have some issues on which they will want to work, and no system is perfect. I am a little cautious about the suggestion by the Leader of the Opposition to release publicly what would be internal school surveys of parent opinion. It is certainly contrary to her position in relation to other available information—in particular basic skills test information, where she is supporting prevention of publication of that sort of information to the general community.

I will take on board the fact that the Leader of the Opposition would like to see made public all the information that is being collected by each individual school, because that is what the question that she put to me involved. As Minister, I would have to say that I am a bit cautious about releasing publicly that sort of information, but I take on board that that is the position of the shadow Minister and the Labor Party in relation to this matter. As I said, I am cautious about agreeing to the proposition put by the Leader of the Opposition.

The Hon. CAROLYN PICKLES: As a further supplementary question, in the light of the Minister's obfuscation, will he make the results generally available?

The Hon. R.I. LUCAS: Sorry, I didn't hear the question. I heard 'obfuscation', but I didn't hear the question.

The Hon. CAROLYN PICKLES: Will you make the general results available, without detailing schools?

The Hon. R.I. LUCAS: The Leader of the Opposition now puts a further question. In addition to the individual reports that she wants made public, she now wants to know whether I will make public any general report. In response to the Leader of the Opposition's further question regarding a general report, first, we will have to—

The Hon. Carolyn Pickles: You wouldn't lie straight in bed.

The Hon. R.I. LUCAS: I think that's a bit unparliamentary, but I'm a big boy. The first question is whether or not there will be a central compilation of the individual results of the reports or just some sort of an overall assessment. I will take advice regarding any overall assessment that there might be as to whether that will be made public.

FERRIS, Ms J.

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General a question about making public advice received from the Solicitor-General regarding Ms Jeannie Ferris.

Leave granted.

The Hon. T.G. CAMERON: Ms Ferris was nominally elected as a senator for the State of South Australia at the election held on 2 March 1996. On 18 March 1996, Ms Ferris was employed by Senator Minchin, the Parliamentary Secretary to the Prime Minister.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: Is the Hon. Angus Redford finished?

The PRESIDENT: Order!

The Hon. T.G. CAMERON: Ms Ferris held the position of Assistant Adviser for the period from 18 March 1996 to 28 June 1996. On 25 March 1996, Senator Minchin wrote to the Minister for Administrative Services (Mr Jull) advising that he had:

> . . . appointed Ms Jeannie Ferris to the position of Assistant Adviser to me in my capacity as Parliamentary Secretary to the Prime Minister.

It has been revealed that Ms Ferris received taxpayer funded pay and allowances of more than $9 000. The problem for Ms Ferris and the Liberal Party is that, under section 44(iv) of the Australian Constitution, any person who:

> . . . holds any office of profit under the Crown, shall be incapable of being chosen or of sitting as a Senator.

On 12 July 1996, just 12 days after her term commenced, Ms Ferris submitted to the Governor-General a letter of resignation as a senator. Her resignation came two days before a Senate deadline to refer the matter of her eligibility to the High Court sitting as the Court of Disputed Returns.

The issue of holding an office of profit under the Crown is not the only problem Ms Ferris faces. She may have also been compromised by owing her allegiance to another country—in particular, New Zealand.

The Hon. A.J. Redford: That's rubbish.

The Hon. T.G. CAMERON: The Hon. Angus Redford interjects again.

Members interjecting:

The PRESIDENT: Order on my right!

The Hon. A.J. Redford interjecting:

The PRESIDENT: The Hon. Angus Redford!

The Hon. T.G. CAMERON: If the questions are answered, the Attorney-General will have the opportunity to put the matter right.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: The Government has called a Joint Sitting of the South Australian Parliament at noon tomorrow to select a replacement for the casual Senate vacancy left by the resignation of Ms Ferris. The Government will move to reappoint Ms Ferris to the position from which she resigned just 11 days ago.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: Thank you for your protection, Mr President. In December 1977, when the two Houses met to replace Senator Steele Hall, who had been elected to the Senate on the Liberal movement ticket but had resigned to contest the Federal position of Hawker as the Liberal Party candidate, the then Government made publicly available the Solicitor-General's legal advice on issues affecting the Joint Sitting. My questions are:

1. Has the Government requested and received an opinion from South Australia's Solicitor-General, Crown Law or any other source in relation to the eligibility of Ms Jeannie Ferris to be reappointed to the Senate vacancy that she created; and, if so, will the Attorney-General table advice to allow members to consider it ahead of tomorrow's Joint Sitting?

2. Has the Attorney-General seen a copy of Ms Ferris's declaration of renunciation of her New Zealand citizenship?

3. If so, will he assure this Chamber that the date on which it was enrolled as of record and registered in the Department of Internal Affairs, Wellington, New Zealand, was before the issue of writs for the last Senate election?

4. Will the Attorney-General provide satisfactory evidence in this regard of Ms Ferris's qualification to have been chosen as a senator at the election on 2 March 1996 before putting forward her nomination at tomorrow's Joint Sitting?

The Hon. K.T. GRIFFIN: I am not in a position to deal with all the factual situations that the honourable member asserted in his explanation. I picked up one or two aspects as he went through his explanation, with which I would certainly disagree on fact and on law, but I will consider the issues that he has asserted in his explanation.

I have sought advice from the Solicitor-General, particularly in relation to tomorrow's Joint Sitting, and I will consider his request about the availability of that advice. I see the role of the Attorney-General, as did my predecessor, as having ministerial responsibility as part of the Government and having independent responsibility to advise the Parliament on legal issues, if advice is sought. As I said, I have sought advice from the Solicitor-General about the Joint Sitting.

As a State, we have acted in accordance with the Constitution Act in the notification to the Presiding Officers of the two Houses that there is a casual vacancy. The Parliament is entitled to rely upon the advice which has been conveyed from the Governor-General to the Governor and communicated to the State that there is a casual vacancy. Of course, there is a presumption of regularity in that process.

Obviously, it will be open to any citizen in this State who is an elector for the Senate, after the appointment is made by the Joint Sitting, to take the matter to the Court of Disputed Returns. That is quite freely acknowledged, but, as I said, there is a presumption of regularity in the process.

The Joint Sitting and the Government do not have to go back behind the information which has been presented in the message from the Governor-General to the Governor and then to the Presiding Officers. We are acting in accordance with the Constitution Act; and the advice of the Solicitor-General is that it is proper for us to do that, relying on the presumption of regularity. The Solicitor-General has also advised that, in his opinion, based on the available evidence, there is a casual vacancy.

I know that Senator Bolkus has been in the public arena making statements about whether or not Ms Ferris was validly elected in the first place, and many people have looked at that issue. If Senator Bolkus wants—

Members interjecting:

The PRESIDENT: Order! The Attorney-General.

The Hon. K.T. GRIFFIN: If Senator Bolkus wishes to raise those issues—he has a point of view, which I am not sure is necessarily shared by his Party—he is entitled to do so. If he decides to do that and is prepared to go to the Court of Disputed Returns as an elector for the Senate for the State of South Australia, he will have to put his money where his mouth is, and any other elector will have to do the same.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: To repeat, for the members who did not hear the part of my answer which was relevant, Senator Bolkus has been in the public arena making assertions that Ms Ferris was not validly elected and that therefore there is not a casual vacancy. All the evidence and analysis of the law is contrary to that position. Obviously, if Senator Bolkus wished to take the matter to the Court of Disputed Returns, as he would be entitled to do, that is a matter for him, but he will obviously have to be prepared to pay costs. It may be that his Party will support him in doing that, but that, again, is a matter for the Party.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order, the Hon. Legh Davis and the Hon. Angus Redford!

The Hon. K.T. GRIFFIN: The Constitution provides rights and opportunities to citizens to have matters that might be in dispute in relation to elections tested before the Court of Disputed Returns, which is in fact the High Court of Australia. After the Joint Sitting tomorrow, when I hope that it would make a decision, it will be up to any citizen to decide whether or not he or she may wish to take this matter to the Court of Disputed Returns. However, on the information that the Government has, by resigning Ms Ferris did in fact create a casual vacancy, that—

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: On the advice that I have she was quite properly elected. The matter was raised in the Senate. The Senate passed a resolution and it is for her to decide whether she wishes to resign to test the matter, and obviously that is what she has done. Members opposite should not forget that prior to the 1989 State election the Hon. Frank Blevins was a member in this House. As I recollect, he resigned half way through his term to contest the seat of Whyalla. The speculation was rife around these corridors that he was on a promise that, if he did not win, he would be renominated by the Australian Labor Party and the vacancy would be filled by the Joint Sitting. That speculation was rife, and confirmed by the other side—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: In advance of tomorrow—

The Hon. Anne Levy interjecting:

The PRESIDENT: Order! The Hon. Anne Levy will get a chance in a moment.

The Hon. K.T. GRIFFIN: In advance of tomorrow's Joint Sitting, I put on the record the advice which I have, namely, that there is a casual vacancy, she is not disqualified from being nominated or being appointed and that the State, whether as a Joint Sitting or as a Government, is entitled to rely on the presumption of regularity, having received a message from the Governor-General through the Governor of the State and that that is a proper basis upon which we move tomorrow.

The Hon. T.G. CAMERON: As a supplementary question: the Attorney-General stated that he would give consideration to my request; will he advise us of his attitude to releasing the report prior to the 12 noon hearing tomorrow?

The Hon. K.T. GRIFFIN: I will give some consideration to that during the afternoon. I acknowledge the interest of honourable members in this place and in the other House in the issues which have been raised and speculated upon publicly. I will endeavour to ensure that proper information is provided to members and provided within an appropriate time frame to enable proper consideration of it. I can do no more than that at the moment. I know there are people who want to play politics about it, and in some respects I can understand the reasons, but I would want to ensure—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: If you do not want to accept what I am saying in good faith, say so. I am endeavouring to provide information to the Council, to members on both sides and on the crossbenches in relation to this matter. I will endeavour to ensure as much as possible that for the Joint Sitting tomorrow, and before that, that members are properly informed about the advice I have received and the advice which, if I am called upon to give to the Joint Sitting, I will give to the Joint Sitting. I have outlined the nature of the advice I have received and I will give further consideration to the request made by the honourable member. I will let members know as soon as I am able what my response formally will be.

LEGIONNAIRE'S DISEASE

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to table a ministerial statement made by the Minister for Health, Dr Michael Armitage, in another place on the Legionella outbreak.

Leave granted.

PALLIATIVE CARE

The Hon. DIANA LAIDLAW (Minister for Transport): I also seek leave to table a ministerial statement made by the Minister for Health on death and dying.

Leave granted.

DUCK HUNTING

In reply to **Hon. M.J. ELLIOTT** (27 March).

The Hon. DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following information.

1. The Animal Welfare Advisory Committee was established under the Prevention of Cruelty to Animals Act to advise the Minister on a wide range of animal welfare matters. While the Minister takes the views and advice of the committee very seriously it must be recognised that there are often a number of additional factors to be considered when deciding on an appropriate course of action.

2. In relation to duck hunting, the Animal Welfare Advisory Committee has advised the Minister that it is opposed to the hunting of any animal for sport and has requested that their view be considered in the determination of duck hunting policy. The Minister has acknowledged the committee's advice, however, has reiterated that it is the Government's current policy to maintain the right of licensed hunters to hunt ducks in accordance with existing regulations under the National Parks and Wildlife Act.

3. The Minister has been provided with information regarding wounding rates and has considered it. There is debate on the level of wounding of ducks as a result of recreational duck hunting. On the basis of computer modelling the animal liberation groups claim that one duck is wounded for every duck bagged. The hunting groups, on the other hand, believe that this model is based on a number of assumptions which are not valid in the field situation.

4. No.

FARM VEHICLES

In reply to **Hon. CAROLINE SCHAEFER** (2 July).

The Hon. DIANA LAIDLAW:

2. The new provisions do not address any form of property insurance. The registration of farm tractors and self-propelled farm implements will ensure that all these vehicles which access the road network are provided with Compulsory Third Party Bodily Injury Insurance. This insurance covers the costs of bodily injury for third parties who are injured as a result of the use of a motor vehicle.

The decision to insure against the risk of damage to another vehicle (third party property damage insurance) or to also insure against the risk of damage to the owner's vehicle (comprehensive insurance) is left entirely to the owner of the vehicle.

3. The costs which apply for the registration and insurance of farm tractors and self propelled farm implements from 1 July 1996 comprise the following components:

Registration Renewal

· Registration Charge	Nil
· Compulsory Third Party Insurance	$21 annually
· Administrative Fee (Registration Renewal)	$5
· Total (annual)	$26

The registration of farm tractors and self-propelled farm implements is available in quarterly increments up to three years, allowing further reduction in the annual costs, for example:

Three Year renewal $5+$(3x21)	$68

New Registration

In order to provide a reasonable period to farmers to effect the registration of their tractors and farm implements the registration and CTP exemptions which applied in the past will continue until 30 September 1996. The fees for the initial registration of a tractor or self propelled farm implement after that date are:

· Registration Charge	Nil
· Compulsory Third Party Insurance	$21 annually
· Administrative Fees	
Number Plate(s)	$20
New Registration	$20
· Total (typical three years)	$103
· Total (One year)	$61

I draw the attention of honourable members to the generous savings available to those who register within the moratorium period. These concessions are being made available to assist in the initial implementation of the new arrangements. Until the end of the moratorium period on 30 September 1996, the following fees will apply to farm tractors and self propelled farm implements which are not currently registered:

· Registration Charge	Nil
· Compulsory Third Party Insurance	$21 annually
· Administrative Fees	
Number Plate(s)	Nil
New Registration	$5
· Total (typical three years)	$68
· Total (One year)	$26

BETTER CARE

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Consumer Affairs in his own capacity, and also as the Minister representing the Minister for Industrial Affairs, a question about the activities of the firm Better Care and the solicitors Anders, Salwin and Salwin.

Leave granted.

The Hon. R.R. ROBERTS: Yesterday I was contacted by Mr Maurie Dwyer, from the Australian Workers Union, who, in turn, had been contacted by constituents in Port Pirie, generally past and present workers of the Pasminco BHAS Lead Smelters, who have been approached by telephone by representatives of Better Care, a firm involved in touting for the business of work-related hearing loss compensation claims. I have been further informed that the firm has also been active in touting for business in Whyalla, particularly targeting past and present workers from the BHP Steelworks. I understand that my constituents have been offered free hearing checks as a precursor to lodging the claim for hearing loss compensation payment. I understand that if hearing loss is found Better Care offers to assist the client to obtain compensation and the company provides an authority to act form to its clients which, if signed, authorises the legal firm of Anders, Salwin and Salwin to act on their behalf. At this point a non-refundable fee of $300 is charged to the client, who is also informed that if the compensation is paid Anders, Salwin and Salwin will receive a portion of the payment. In some cases Better Care itself will receive a portion.

For instance, if a person receives $3 301 to $3 400 in compensation, Anders, Salwin and Salwin would receive a fee of $1 005, nearly one-third of the compensation payable. When we add the initial fee of $300, the client is paying well over one-third of the compensation payment to the solicitor and Better Care. Documents provided by Better Care to constituents state the average compensation payment received is $5 500 and from this payment the solicitor receives $1 250. Better Care receives $238, plus the initial $300 fee, a total of $1 788 from a compensation payment of $5 500. This leaves only $3 712 for the client. What is somewhat insidious in all of this is the fact that the fee structure is such that the proportion of compensation lost in fees is at its highest when the compensation payment is under $3 400. People receiving the smallest compensation payment pay the highest proportion of the fees. As part of the telemarketing push I understand that Better Care has stated to clients that the 'Government'—and I do not know which Government they mean—has set aside millions of dollars to clear up a backlog of hearing loss claims.

I also understand that Better Care asked its clients to provide the names and telephone numbers of workmates, or former workmates, who may be interested in lodging a hearing loss claim. I am informed by officials of the Australian Workers Union that the services offered by Better Care and Anders, Salwin and Salwin are generally available at little or no cost to workers and/or retired workers. My questions to the Minister are:

1. Will the Minister have the activities of the firm Better Care and the legal firm Anders, Salwin and Salwin investigated by his officers to ensure that they are acting according to the relevant statutes in relation to their marketing, fee structure and general activities?

2. Will the Minister for Industrial Affairs shed any light on the claims made by Better Care in its telemarketing that the Government has 'set aside millions of dollars to settle hearing loss claims'?

3. What advice can the Minister for Industrial Affairs offer to workers who believe they have a hearing loss compensation claim?

The Hon. K.T. GRIFFIN: The honourable member has raised some complex issues. I will need to take some advice both in relation to the firm of solicitors to which he refers and also the firm Better Care. Of course, some important issues arise as to whether the representations made accord with the actuality, as well as issues of the way in which fees might be charged. However, I do not seek to prejudge the issues. It is important to have them properly looked at. I will do that, and arrange also for the Minister for Industrial Affairs to examine the issues raised and bring back replies.

The honourable member made some reference, or at least an assertion, in his explanation that the Government has a pool of money to meet hearing loss claims. He will recognise, as will most other people familiar with the area, that the Government does not have any funds in relation to workers' compensation: they are all employers' contributions through the levy to WorkCover, and that WorkCover is a statutory body and, whilst an instrumentality of the Crown, is comprised of members from both employer and employee organisations. So, it is not correct that the Government has a pool of money to deal with these sorts of claims. I will have the matters looked at and bring back a reply.

VOLVO BUSES

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport a question about TransAdelaide's fleet of grey Volvo buses.

Leave granted.

The Hon. SANDRA KANCK: My office has been contacted by a company that once converted TransAdelaide's fleet of grey Volvo buses from an illegal width of 2.6 metres to a width of 2.5 metres. The company used to tender for the purchase of the buses as they were retired from use and sold by lot to the former STA. Once converted, the company would then sell the buses to transport operators interstate (predominantly to Queensland authorities), but when the Queensland Government decided to grant permits for the use of these over-width buses on Queensland roads—as the South Australian Government has done with the STA and TransAdelaide—the SA Government decided that national uniformity was no longer a necessity.

A sole selling agent was appointed, despite an advertisement by the former STA calling for applications for multiple selling agents, which effectively bypassed this company and put it out of business—and this from a Government that says it wants to create jobs.

The Hon. Diana Laidlaw: This was five years ago.

The Hon. SANDRA KANCK: Right, well, that is good to hear. The Government escaped legal liability at the time the selling agent was appointed on the grounds that the decision was Government policy. I have raised several matters in this Chamber relating to the regulation of traffic on South Australian roads. A justification often cited by the Minister, which she has used both for or against particular proposals to change legislation and regulations, has been the need to conform to nationally agreed uniform principles on road traffic regulation. My questions to the Minister are:

1. How many of TransAdelaide's fleet of Volvo buses remain on Adelaide's roads? In how many road crashes are they involved in a given year, and to what extent does their extra width contribute to road crashes in which they are involved?

2. Are there any occupational health and safety considerations arising from over-width buses operating on South Australian roads?

The Hon. DIANA LAIDLAW: It is very important to reflect on the fact that the explanation does not relate to the questions and, in terms of the explanation, the issues raised by the honourable member were matters that I addressed in this Council four and five years ago to the then Minister for Transport, the Hon. Barbara Wiese, and I think I may have even addressed them to the Hon. Frank Blevins. That company went out of business well before I became Minister for Transport, so it is important to have that fact on the record.

It was a matter of some regret to me to have to work with the same person who has clearly contacted the honourable member but chosen not to tell her all the facts, or she may not have listened. I will obtain the detailed information sought by the honourable member and bring back replies to her promptly. I am sure it is all on file.

In the meantime, I indicate that it has been a long-standing policy that public transport buses in this State be over width. It is important in terms of transporting as many people as possible at the times they want to travel, which is mainly at peak hour, without investing even further dollars at taxpayers' expense in the public transport system. It is a method of operation that works well, and it is not envisaged that it will change.

LION NATHAN

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Premier, a question about Lion Nathan.

Leave granted.

The Hon. A.J. REDFORD: The *Business Review Weekly* of 8 July published an article titled 'Chinese Lion' which stated:

> Lion Nathan's $200 million decision to build a wholly owned brewery in Suzhou, China, planned to be operating by 1998, has led to renewed industry speculation about the future of the old SA Brewing plant on prime city real estate in Adelaide.

The article further states that Lion Nathan has denied the rumours but confirms that Lion Nathan is considering the transfer of 'surplus plant in Adelaide to Suzhou'. When Lion Nathan first took over the South Australian brewing operations from Southcorp, Mr Myers, the Chief Executive, came to Adelaide and repeated assurances that the New Zealand brewing group had no intention of closing down the newly acquired SA Brewing operations. Mr Myers was quoted as saying:

> Lion Nathan intended to be in SA for 'the long term' as regional brewers.

The article further states that he [Mr Myers] dismissed as 'owner bashing by people without enough to do' recent market talk that Lion Nathan would halve the SA work force and would eventually transfer the operation to the company's high-technology Perth brewery.

Indeed, on 3 August 1993 it was again confirmed that the New Zealand based brewing giant would continue beer operations at Thebarton after the purchase. That claim was also repeated in an article dated 22 October 1993. I note that on 16 October 1993 the present Leader of the Opposition, the then Industry Minister, sought assurances that Lion Nathan prove its commitment to South Australia, and I understand

that it did so. The capacity or the brewing production of the company at the time of the takeover was some 100 million litres per year, in a plant that had the capacity to produce 200 million litres per year. I also note that in the *Advertiser* of 28 May 1994 the SA Brewing Managing Director (Mr Jackson) confirmed that the strategy of the company was to target the Victorian market and also to engage in the export of beer overseas. In the light of that, my questions to the Premier are:

1. Is the Premier aware of the rumours stated in the *Business Review Weekly*?

2. Can the Premier seek assurances that Lion Nathan is not intending to move its South Australian operation or its plant overseas?

3. Can the Premier advise on whether the stated intent to reduce excess capacity as at May 1994 has in fact occurred?

4. Can the Premier seek assurances that Lion Nathan has not changed its policies since May 1994?

The Hon. R.I. LUCAS: I am happy to refer the honourable member's question to the Premier and bring back a reply.

ARTS FUNDING

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for the Arts several questions about funding for live performance projects grants in South Australia.

Leave granted.

The Hon. T.G. ROBERTS: In the *Advertiser* of 22 July 1996 there is a photograph of our only single actor left in the State, alongside the headline, 'Actors outraged as roles dry up in local drama'.

The Hon. Anne Levy: Full-time actor.

The Hon. T.G. ROBERTS: I am corrected by my colleague: she is the only full-time actor. The Minister would be aware that South Australians performers are concerned about the future of the local industry, and especially about work opportunities for actors, full-time and part-time. The Minister may also be aware that at an industry forum on 19 July 1996, chaired by acclaimed Australian playwright Stephen Sewell, the audience of over 100 performers and theatre workers unanimously endorsed a call from the Media Entertainment and Arts Alliance (with whom the Minister is good friends—particularly Mr Stephen Spence) for a radical increase from the current $35 000 allocated to $500 000 in the amount of funds allocated for live performance projects.

The Hon. L.H. Davis interjecting:

The Hon. T.G. ROBERTS: The honourable member should be careful not to interject, as I understand that some action could be being taken in relation to some material that the honourable member has put before the Messenger Press in the form of a photograph; I understand that he might be taken up for false pretences.

The Hon. L.H. Davis interjecting:

The Hon. T.G. ROBERTS: Well, your mother must have got it from your graduation ceremony. My questions to the Minister are:

1. Is the Minister aware that, despite a total State arts budget of $139.7 million, only one full-time actor is employed in South Australia?

2. Does the Minister believe this is good for the performing arts in South Australia?

3. Will the Minister give a guarantee that project funding increases will be a part of her major statement on local writers and performers scheduled for later this year?

4. Is the Minister aware of any major projects that may involve full-time or part-time live performers in this State in the next financial year?

The Hon. DIANA LAIDLAW: The honourable member has acknowledged an issue that has unfortunately been around for some time, that is, the lack of opportunities for local performers. I remember it was raised when the Hon. Anne Levy was Minister and it is raised now, and in my view it is still an equally serious issue. The way in which productions are today being shared with other companies and also introduced from interstate has been a lively issue with the State Theatre Company. There is a reason why companies across Australia are performing joint productions: cost is one factor, as is the Playing Australia grant, introduced by the Federal Government, which has been an enormous bonus for the arts.

However, it has also meant that smaller States such as South Australia have not seen the same amount of work produced locally because there has been this incentive to tour productions from interstate to South Australia and to co-produce, as I indicated.

I have sought to address this issue by reference to and discussions with local performing arts companies in this State, along with writers, film producers, the department, the tertiary colleges and the like and, as the honourable member indicated, earlier with Mr Stephen Spence. As the honourable member acknowledged, a statement is to be made by me later this year on theatre in South Australia. It will involve readjustments of budget initiatives rather than additional funding because, as the honourable member would appreciate, we are into the financial year.

While no Minister would be entirely happy with any budget in this climate, essentially the arts budget has done well, but it has not meant that we have all the money we want for all purposes. This is one area where we could not be entirely satisfied.

It is important to recognise that, while there have not been the performance opportunities all local actors would want in theatre, there has certainly been a resurgence of activity in the film industry in this State, and that has been important for acting roles and further job opportunities. The decision by television companies not to produce in South Australia and to network, and I suppose one could argue the current review of ABCs and the imminent cuts to the ABC, might also have a further impact on production in South Australia. That range of issues has seen actors and performers have less opportunity to find full-time work in this State. It is not satisfactory and, from the arts perspective—and theatre in particular—we are seeking to address this problem.

The Hon. Anne Levy: Jobs have gone down since you became Minister.

The Hon. DIANA LAIDLAW: Well, I didn't wish upon the State the State Bank crisis.

STURT STREET PRIMARY SCHOOL

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about the Sturt Street Primary School.

Leave granted.

The Hon. M.J. ELLIOTT: The Minister has publicly stated that the decision to close Sturt Street Primary School was made on sound economic grounds. In this Parliament on a number of occasions and at meetings of concerned groups, he has been questioned about the costings of the closure. To this stage, I do not believe he has released any details of the economic grounds upon which his decision was based.

A number of issues have been raised with me which could cause a number of costs, and they include:

· the cost of required changes to the Gilles Street school to accommodate Sturt Street students;

· the cost of transporting students in Sturt Street's new arrivals program to Gilles Street, which has poorer public transport access (and I am told could involve a quite large number of people regularly using taxis); and

· the impact of the increase in student numbers on staff costs.

My question is: will the Minister provide details of the basis of his claim that the closure was based on sound economic grounds by providing to this Council the cost estimates upon which that decision was made?

The Hon. R.I. LUCAS: I am not sure where the honourable member gets his information from—

The Hon. A.J. Redford: He makes it up.

The Hon. R.I. LUCAS: Yes, he makes it up—but I have never said that the decision was based solely on sound economic grounds. What I said was that we took this decision for educational and financial reasons. So, the suggestion by the honourable member that we took this decision solely on the basis of economic grounds is erroneous. Obviously, we primarily consider the important educational issues. Unlike the Leader of the Australian Democrats, the Government is not solely driven by financial or economic issues but is more interested in educational justification for the decisions that it takes.

As the Leader of the Australian Democrats is solely interested in the economic and financial reasons for these issues and is obviously not interested in the educational reasons, I am happy to look at whatever information I might be able to provide to him. For reference, I refer the honourable member to a series of questions that the Leader of the Opposition has raised regarding this issue on many occasions over the past few months. I have indicated that, until the Government concludes its decision-making regarding the potential use of the Sturt Street site, the final decisions in relation to some of the economic issues cannot be made. For example, if the Government were to sell the Sturt Street site, a considerable sum of money would become available for the capital works program. However, if the Government chose to continue to use the Sturt Street site for educational reasons, as I have indicated to the Leader of the Opposition, it may well be that in centrally locating some of our curriculum units the Government would be able to sell a range of other properties and assets in the metropolitan area.

The Hon. M.J. Elliott: Do you have some ballpark numbers on that?

The Hon. R.I. LUCAS: I have some ballpark numbers, but I do not intend to share those with the honourable member.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Well, he does get a number of economic and financial issues wrong, as we have seen in recent weeks. I do not intend to share ballpark figures with the honourable member or, indeed, with other members. For example, I am not to know whether there may be people represented by others who may be interested in particular properties that the Government may wish to sell, and if I indicate what the Government expects—

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: As the Hon. Mr Davis indicates, it would be commercially inappropriate. We do not want to indicate the potential values of particular sites. On behalf of the taxpayer, if we can we want to get the maximum dollar value from the sale of any Government assets. For instance, if we indicated that we would be happy to settle for a certain price, there could well be potential purchasers in the market who would be prepared to purchase at a higher price. In conclusion, I cannot and will not provide ballpark estimates for the Hon. Mr Elliott. However, as I have done with the Leader of the Opposition, I am prepared to see whether there is any further detail that I can usefully add to my response regarding the economic and financial grounds for the closure of the Sturt Street Primary School.

SEXUAL OFFENCES

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Attorney-General a question about sexual offences.

Leave granted.

The Hon. BERNICE PFITZNER: The case of a man who received an 18 month sentence after pleading guilty to unlawful sexual intercourse with a three-year-old girl has generated enormous public debate about the issue of sexual offences in general and sentences handed down by the judiciary. As with other emotive issues, such as self-defence, community concern and outrage has been loud and clear. At times such as this people are angry and confused and naturally seek someone or something to blame. Leading the pack is the shadow Attorney-General, who has called for political intervention in the matter which I have raised. My questions are:

1. Does the Attorney-General plan to take the advice of the shadow Attorney-General and intervene on this matter; if not, why not?

2. What steps has the Attorney-General taken to ensure that the community has been given timely and accurate information on this subject?

The Hon. K.T. GRIFFIN: These sorts of cases are always very difficult, and they are the subject of quite emotive reactions with some justification, because any offence which involves violence towards another person, particularly a child, is to be abhorred. I, personally, and members of the Parliament as well as of the community when they read of these sorts of cases (albeit frequently without all the facts before them), quite justifiably become outraged and seek to reflect on both the process and the penalty. Of the thousands of cases which come before the courts and where sentences are imposed, there is a handful of cases where the penalties are the subject of public debate and criticism. That is the first point that must be remembered.

Secondly, in our system, the courts are independent of the Executive Arm of Government. That is even more so in this State than in other States in the sense that the administration of our courts is committed to the Courts Administration Authority, a structure which was introduced by the previous Government and supported by the Liberal Party, although when in Opposition we had some reservations about aspects of that. However, it is a fact of life, and it is a measure under

which, at least in the administration of the courts, there is further remoteness from the involvement of Government, although the Government does, in fact, approve the budget.

In terms of the processes before the courts, it is important to recognise that, by statute, the Director of Public Prosecutions has the responsibility for prosecuting. The previous Attorney-General introduced a Bill to establish the office of the DPP, and the Liberal Party supported that. I make no apology for that: we supported the establishment of the office of the DPP which largely came out of the recommendations of the NCA report called, I think, Operation Hydra. That report recommended the establishment of the office of the DPP on the basis that it would largely be guaranteed independence from political or other interference.

Under the Act, the DPP has the sole discretion and responsibility for whether or not to appeal any decision relating to sentence. In fact, the DPP has the sole right to determine whether or not a prosecution will be instituted or, if it has been, whether it will be continued. I think it is important in our society to recognise that, although sometimes there is a reference to the Attorney-General to become involved in the sentencing process or to determine whether there should be an appeal—and in this case there was a public request for me to intervene and seek an appeal—the fact of the matter is that the Attorney-General does not have that power or responsibility and can merely refer the matter to the DPP. That was done in this case. The Director of Public Prosecutions has not yet made up his mind whether there should be an appeal. If he determines on all the facts that there should be an appeal, that will become the subject of public comment.

We also need to recognise that as a Government and Parliament we have sought to do a number of things which provide a greater level of protection for those who might be the victims of sexual abuse. We have the persistent sexual abuse provision which deals particularly with children, for which life imprisonment is the maximum penalty. We have made other changes in the law, plus the Inter-Agency Child Assessment Panel which has been established to try more effectively to direct the resources of Government at an early stage towards child victims of sexual abuse. All of that is directed towards more support for victims and for children and the appropriate means for ensuring that where the facts prove a case beyond reasonable doubt it can be dealt with adequately by the courts.

I recognise that there is a lot of community concern about these sorts of cases. We would welcome any further contributions that people may wish to make about constructive proposals for change if that is appropriate. We can then get on with the job of ensuring that victims are even better supported than they are at present, although that support is significant compared with the support that is given in other jurisdictions.

EDS CONTRACT

In reply to **Hon. CAROLYN PICKLES** (30 May).

The Hon. R.I. LUCAS: The Government's contract with EDS prohibits the release of particular figures relating to particular agencies.

The basic position is that the price paid by EDS for transferred assets is the market value plus a negotiated premium.

The process for determining market value included independent valuation of the assets by the Government and EDS. Throughout this process, independent consultants were used by the Government to ensure that the prices paid by EDS compensated the Government adequately for the assets transferred.

The Government has obtained the highest prices available for its assets consistent with the overall benefits available to it under the contract.

Not all equipment transferred to EDS from the Department for Education and Children's Services was funded by DECS. Some items were purchased from funds raised locally by school communities. Proceeds from the sale of the assets purchased by DECS (for example, fileservers, operating software, hubs and Uninterruptible Power Supply devices supporting EDSAS) will be returned to the Consolidated Account. The Government will consider using some of the proceeds to help fund whole of Government Information Technology initiatives. If this decision was taken, DECS may enjoy some of the benefits of the sale of assets to EDS. It is intended to reimburse schools for computing assets purchased using locally raised funds. The amount to be reimbursed will be dependent on proof of purchase of items and the age of these items.

ST PETERS COUNCIL

In reply to **Hon. P. NOCELLA** (6 June).

The Hon. R.I. LUCAS: The Minister for Multicultural and Ethnic Affairs has provided the following response

1. The St Peters Council passed a motion on 16 May 1996 rejecting the Local Government Association draft policy 'Strength in Diversity'. The motion read as follows: 'that the LGA be advised the Council request that they do not proceed any further with this document and be asked as to how the proposed policy fits with amalgamation across diverse Local Government units'. On 6 June 1996 the motion was revoked and replaced by: 'that the Local Government Association be advised that the Council supports the policy as expressed in the draft and that individual members be invited to make their own personal submissions'.

2. The State Government is committed to ensuring that the Declaration of Principles for a Multicultural South Australia applies to all South Australians.

CITIZENSHIP

In reply to **Hon. CAROLYN PICKLES** (6 June).

The Hon. R.I. LUCAS: As I indicated in my response to the honourable member's question, civics and citizenship education is essential for all students' learning. In particular it is a core part of learning in studies of society and environment. The Department of Education and Children's Services has indicated its support publicly on numerous occasions.

Current support for civics and citizenship education is indicated by the formation of the Department for Education and Children's Services Civics and Citizenship Education reference Group and the three year appointment of Mr Mark Blencowe as Curriculum Officer, Civics and Citizenship Education.

MEDICARE

In reply to **Hon. T. CROTHERS** (30 May).

The Hon. R.I. LUCAS:

1. To fund the compensation payable with regard to the surrender of firearms, federal legislation has been amended to increase the rate of the Medicare Levy from 1.5 per cent to 1.7 per cent for the 1996-97 income year. The Medicare Levy Amendment Bill 1996 which amended the Medicare Levy Act 1986 to give effect to the increased rate specifically states that the higher rate will apply for the 1996-97 income year only. At the end of this period the rate will revert to its previous level of 1.5 per cent.

2. A press release issued by the Prime Minister on 14 May 1996 regarding the funding of the gun 'buy back' scheme agreed to by the Commonwealth and States clearly states that the funds raised will be devoted solely to the purpose of funding compensation for surrendered guns, with any surplus returned via the Medicare levy system. I fully support this approach and will pursue this goal in the on-going negotiations between the Commonwealth and the States and Territories on the final conditions for the monitoring and allocation of the monies raised by this one-off increase in the Medicare Levy.

STATE BUDGET

In reply to **Hon. T. CROTHERS** (5 June).

The Hon. R.I. LUCAS: The Treasurer has provided the following response.

1. The cost of the 15 per cent pay increase is to be spread over more than one financial year, and totals $9.3 million and $20.2 million in 1995-96 and 1996-97 respectively. After productivity improvements implemented under the terms of the Enterprise Bargaining Agreement are taken into consideration, the impact of these costs on outlays is expected to be $3.5 million and $5.0 million in 1995-96 and 1996-97 respectively.

In summary, police outlays this financial year (i.e., 1995-96) will increase by $3.5 million as a consequence of the recently awarded pay increase, and in 1996-97 a further $1.5 million will be added to outlays.

2. No. The Department has been provided with additional appropriation to allow it to meet the $3.5 million additional outlay in 1995-96, and a further $1.5 million, making a total of $5 million, has been incorporated in the Department's funding base in 1996-97 for this purpose. This funding represents the Government's previously announced undertaking to fund the first $15 per week of the wages increase.

It is not clear on what basis the notion of a $5 million reduction in the Police budget has been calculated. There will not be a $5 million reduction in the Police Department's budget this year (i.e., 1995-96), nor is there expected to be any such reduction in 1996-97.

In fact, the Department's total expenditure (even after allowing for a reduction in capital expenditure following the completion of several major projects) is expected to increase by more than $1 million in 1996-97. Its recurrent expenditure will increase by more than $5 million in 1996-97, incorporating the abovementioned $1.5 million net cost of the wages increase.

3. No. While it is premature at this stage to rule in or out any particular options, I would not say a mini budget is the most probable outcome of the Commonwealth budget in August.

Quite clearly, the process of budgetary repair at the national level as a result of the Keating/Beasley period of neglect will effect the States. However, the Premier has made it quite clear—and I can reiterate it for the honourable member—that any cuts in Commonwealth grants to the State, general or specific, will flow through to the Commonwealth programs.

The State is not in a position to prop up those Commonwealth programs. We will be looking at all of these funded programs, however, so that we can steer the Commonwealth away from cutting programs which are more vital to the State.

The Government will further assess its options when more specific information about the Commonwealth's budgetary decisions are available.

5. The Housing Trust's 1996-97 Budget is heavily reliant on the Commonwealth State Housing Agreement grants from both the Commonwealth and State Governments. Based on the Commonwealth State Housing Agreement (CSHA), these funds are required to be allocated to the increasing or improving the State's housing stock. Significant changes to the way public housing is provided in Australia are under consideration on the COAG reform agenda.

In the short term however, a new, temporary, CSHA has been agreed in principle by both the Commonwealth and the States. The actual agreement facilitates the appropriation of funding from the Commonwealth, which in turn will be matched by the States.

The agreement is expected to be passed through the Commonwealth Parliament and in turn should be signed by all parties prior to the Federal Budget. Once this sequence of events has occurred, the level of Housing Assistance Grants to be provided to the States cannot be altered unilaterally by the Commonwealth Government in the August Budget.

Subject to these developments, the sustainability of the proposed level of refurbishments and new houses provided by the Housing Trust in 1996-97 will be further assessed.

FORWOOD PRODUCTS

In reply to **Hon. R.R. ROBERTS** (11 April).

The Hon. R.I. LUCAS: The Treasurer has provided the following response.

The sale of Forwood Products was advertised in the following newspapers:

- Financial Review, Friday 16/2/96;
- Advertiser, Saturday 17/2/96;
- Australian, Saturday 17/2/96;
- US Wall Street Journal, Friday 16/2/96;
- Asian Wall Street Journal, Friday 16/2/96;
- New Strait Times, Saturday 17/2/96;
- Financial Times, Saturday 17/2/96
- New Zealand Herald, Saturday 24/2/96;
- Dominion Post, Saturday 24/2/96;
- Globe & Mail (Canada), Saturday 17/2/96.

Parties which registered interest, and executed appropriate confidentiality deeds, were provided with a Confidential Information Memorandum ('IM').

The sale and purchase contract is currently being drafted.

All asset sales conducted by the Asset management Task Force conform to a Cabinet approved process involving the following three stages.

(1) A scoping study is conducted, in which the objectives for the sale of an asset are established, and a basic hold versus sell analysis is conducted.

(2) The subject asset is then prepared for sale. This involves vendor due diligence in which an exhaustive analysis of all aspects of the asset are examined so that it can be accurately valued, and represented accurately to buyers as part of the sale process. Where required, legislative amendments are enacted, as has been the case for Forwood Products Pty Ltd where legislation was required to amend the SATCO Act to enable the disposal of the shares in Forwood held by SATCO.

(3) The final stage of the sale process, has, in the case of Forwood, involved a two round bidding process. In the first round, bidders are asked to submit a minimum conditional binding bid, which is used as the basis for shortlisting bidders. Those bidders which are shortlisted from the first round are then invited to enter the final bidding round and conduct exhaustive purchaser due diligence. Once a preferred purchaser is selected on the basis of final bids, a recommendation is made to the Asset Management Task Force Board, and ultimately to Cabinet for approval.

ASER PROJECT

In reply to **Hon. L.H. DAVIS** (28 March).

The Hon. R.I. LUCAS: The Treasurer has provided the following response.

1.

Element	Completion Date	Development Cost (M)
Adelaide Casino	31/12/85	24.6
Hyatt Hotel	30/6/88	150.0
Riverside Office	16/1/89	66.4
Adelaide Convention Centre	30/6/87	39.4
Carparks	30/6/87	18.7
Common Areas		44.6
Total		343.7

2. At the time of the Tokyo Agreement (October 1983) estimates for the various elements, based on concept plans and assuming completion in 1986 were approximately:

	$M
Hotel	65.7
Office	32.1
Convention Centre	11.1
Carparks	13.9
Common Areas	17.2

The Casino was not formally part of the project at inception and was not in estimates.

3.

Date of practical completion 16/1/89	$M
Cash Payment to 1/10/89, whilst building vacant	2.15
1/10/89—15/1/91 (lease to SAHT)	3.48
16/1/91—15/1/93 (lease to SAHT)	5.52
16/1/93—15/1/95 (lease to SAHT)	5.52
16/1/95—31/3/96 (lease to SAHT)	3.39
	20.06

4. The current rental is $250 per square metre per annum gross.

SPEED DETECTION DEVICES

In reply to **Hon. G. WEATHERILL** (4 June).

The Hon. R.I. LUCAS: The Minister for Police has provided the following response.

Speed cameras are deployed according to one or more of the following criteria:

- Collision history or potential for collisions (commonly referred to as Blackspots) which have been given a speed weighting by the Traffic Research and Intelligence Section.
- Validated speeding complaints.

- High traffic volume combined with high speed situations.
- Safety—where it is unsafe to use other devices, speed cameras are a preferred option.

Portable signs indicating 'Speed Cameras In Use' are placed in a prominent location between 100 to 200 metres past the camera position to warn motorists they have passed a camera location.

The idea of signs on the exit rather in advance of a speed camera location is to reinforce the road safety message, not to pre-warn drivers of a speed camera location. That would only serve to slow motorists for a short distance and then allow them to travel at higher speeds on exiting the location.

There are signs displayed on all major roads entering South Australia warning motorists that speed cameras are used in this State, similar to other States of Australia.

Two-thirds of serious or fatal collisions are attributed to excessive speed and speed cameras are the most effective way of policing high volume traffic in high risk areas.

STATUTES AMENDMENT (ABOLITION OF TRIBUNALS) BILL

Consideration in Committee of the recommendations of the conference.

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

That the recommendations of the conference be agreed to.

The Bill sought to abolish five tribunals: the South Australian Metropolitan Fire Service Appeal Tribunal, the Tobacco Products Licensing Appeal Tribunal, the Tow-Truck Tribunal, the Soil Conservation Appeal Tribunal and the Pastoral Land Appeal Tribunal. The decision of the conference was to proceed on the first three and not to proceed on the Soil Conservation Appeal Tribunal and the Pastoral Land Appeal Tribunal.

The majority in the Legislative Council wished to have the latter two dealt with by the Environment, Resources and Development Court. The Government was not prepared to accede to that on the basis that presently judges of the District Court constitute those two tribunals. Although the amount of work of those two tribunals is negligible, for consistency of approach the Government took the view, quite vigorously, that it did not wish to do anything more than maintain the *status quo* in the sense that a judge of the District Court would constitute those tribunals. As we could not agree, the Bill deals only with the first three tribunals by abolishing them and conferring jurisdiction upon the Administrative and Disciplinary Division of the District Court.

It is important to note that a number of bodies use the District Court in the resolution of appeals or reviews: the Business Names Act; the Consumer Credit (South Australia) Act; the Conveyancers Act; the Credit Administration Act; the Dog and Cat Management Act; the Dried Fruits Act; the Fisheries Act; the Guardianship and Administration Act; the Land Agents Act; the Land Valuers Act; the Meat Hygiene Act; the Mental Health Act; the Passenger Transport Act; the Petroleum Products Regulation Act; the Plumbers, Gasfitters and Electricians Act; the Rail Safety Act; the Second-Hand Vehicle Dealers Act; the Security and Investigation Agents Act; the State Lotteries Act; the Supported Residential Facilities Act; the Travel Agents Act; the Vocational, Education, Employment and Training Act; the Ambulance Services Act; the Building Work Contractors Act, and a variety of others. There is a mix of those which relate to occupational licences as well as issues of more substance and a mix of those which deal with environmental or resource issues, and others which deal with other areas. In the Government's view, it was appropriate to have the Soil Conservation Appeal Tribunal and the Pastoral Land Appeal Tribunal merely transferred to the Administrative and Disciplinary Division of the District Court as the most appropriate forum providing the flexibility for dealing with these matters. Therefore, the Government accepts the abolition of three tribunals rather than the five that it hoped for.

The Hon. CAROLYN PICKLES: The Opposition, in the second reading and Committee stages, clearly outlined its position, which was that the Pastoral Land Management and Conservation Act and the Soil Conservation and Land Care Act should be dealt with by the Environment, Resources and Development Court. That was not agreed to during the conference, so the Attorney-General has left the situation as it is at present. We are rather disappointed with that outcome. It may be that in time the Attorney-General may see the wisdom of our amendment and adopt it at some later stage.

The Hon. M.J. ELLIOTT: The Legislative Council did not oppose the abolition of the tribunals and for their roles to be incorporated into the work of the courts, which I thought was the basic principle being addressed by the legislation. The Council disagreed with the Government on parts 3 and 4 of the Bill as regards the appropriate court. The view of the Democrats and of the Labor Party was that those matters covered by the tribunals under the Pastoral Land Management and Conservation Act and the Soil Conservation and Land Care Act had a great deal in common with issues handled by the Environment, Resources and Development Court, and as such that was the appropriate court.

I find specialist courts attractive and have supported them in the past in terms of the role that they carry out. For that reason, I believe that is the appropriate court. Indeed, that was the dispute; it was not whether the tribunals may give way to the courts. I am surprised that the Attorney-General has decided that, if he cannot have the court that he wanted, he would rather keep the tribunals. I thought that the tribunals, rather than which court, represented the larger issue. However, that is his decision. I am sure that in due course this will rectified and that the duties of these tribunals may find their way to the Environment, Resources and Development Court.

Motion carried.

OMBUDSMAN (MISCELLANEOUS) AMENDMENT BILL

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

No. 1 Clause 9, page 3, line 33—Leave out 'prohibit' and substitute 'direct'.

No. 2 Clause 9, page 3, line 34—Insert 'to refrain' after 'applies'.

No. 3 Clause 9, page 3, lines 35 and 36—Leave out '(provided that no administrative act may be prohibited pursuant to a notice or notices for more than 45 days in aggregate.)'

No. 4 Clause 9, page 3, after line 36—Insert new subclause as follows:

(1a) A notice or notices issued under this section must not require an agency to refrain from performing an administrative act for more than 45 days in aggregate.

No. 5 Clause 9, page 4, line 2—Leave out 'administrative act sought to be prohibited' and substitute 'relevant administrative act'.

No. 6 Clause 9, page 4, line 11—Insert 'and must revoke a notice if satisfied that the notice should not have been issued because the circumstances did not fall properly within those described in subsection (2)' after 'section'.

No. 7 Clause 9, page 4, after line 11—Insert new subclause as follows:

(3a) If, following receipt of a notice under this section, the agency is of the opinion that, in the circumstances, failure to comply with the terms of the notice would be reasonable and justifiable, the agency may determine not to comply with the notice (in which case it must advise the Ombudsman of that determination, in writing, as soon as practicable).

No. 8 Clause 9, page 4, after line 23—Insert new subclause as follows:

(4a) A power or function of the Ombudsman under this section must not be delegated.

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

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

The amendments relate to clause 9 of the Bill which inserts a new section dealing with the temporary prohibition on administrative acts. Under the terms of the Bill passed by the Legislative Council, the Ombudsman can, by notice, prohibit an agency from performing an administrative act for a period of up to 45 days. The Ombudsman cannot issue such a notice unless satisfied that the administrative act is likely to prejudice an investigation or the effect of a recommendation that the Ombudsman might make. The power to issue a notice would only apply where it is necessary to prevent hardship to a person and the compliance with the notice would not result in the agency breaching a contract or legal obligation or cause another party undue hardship.

Some concern has been expressed that the provision as passed by the Legislative Council may cause problems for agencies. There is concern that the Bill does not make it clear whether an agency must comply with a notice and the effect of non-compliance. The Bill referred to the Ombudsman prohibiting an act, and provides for the Ombudsman to report to the Premier on any unjustifiable or unreasonable non-compliance. The report to the Premier can also be tabled in Parliament. It has been suggested that compliance in such circumstances could be viewed as a voluntary action and that an agency that complies with a notice could expose itself to legal liability in some situations. The Government considers that some clarification is needed to ensure that the agencies are not put at risk and legal liability by virtue of complying with a notice. These amendments are aimed at clarifying the position of agencies.

The first two amendments had the effect of removing any reference to the Ombudsman prohibiting an administrative act; rather, the amendment provides for the Ombudsman to direct an agency to refrain from performing an administrative act. This terminology is considered to be more appropriate, given the consequences of non-compliance. The third amendment is of a drafting nature. It removed the time limitations set out in subsection (1). However, the next amendment reinserts the time limitation in new subsection (1a). The fourth amendment is consequential; it reinserts the limitation period in separate subsection (1a). The substance of the provision is not changed, that is, the maximum period of 45 days is retained. However, the new provision does reflect the change whereby the Ombudsman directs an agency to refrain from performing an administrative act rather than prohibits the act. The next amendment is consequential on the earlier amendment whereby the Ombudsman directs an agency to refrain from performing an administrative act rather than prohibits the acts.

Amendment No. 6 amends subsection (3) of new section 19A. The amendment requires the Ombudsman to revoke a notice if he is satisfied that the notice should not have been issued because the circumstances do not fall within those described in subsection (2). Therefore, for example, if the Ombudsman becomes aware that an agency would be in breach of a contract by complying with a notice he would have to revoke the notice. In respect of amendment No. 7, new subsection (3a) provides that, if, following receipt of a notice under the section, an agency is of the opinion that in the circumstances failure to comply with the terms of the notice would be reasonable and justifiable, the agency may determine not to comply with the notice and must advise the Ombudsman accordingly. This is aimed at guarding against the situation where compliance with the notice could leave the agency exposed to some legal liability. Before issuing a notice the Ombudsman must be satisfied that compliance would not result in the agency breaching a contract, and so on.

However, problems could arise for an agency if the Ombudsman is not aware of a potential liability or, following receipt of the notice, the agency becomes aware that such a liability may arise. The subsection places the onus on the agency to make the decision on compliance. The agency is the party that has all the relevant information. If an agency fails to comply with a notice and the grounds are subsequently found to be unjustifiable or unreasonable, the Ombudsman would be able to report on this matter pursuant to subsection (4). The Ombudsman Act is based on a scheme where the Ombudsman makes recommendations and reports to the Premier and Parliament rather than imposing formal sanctions against agencies. This provision is consistent with the scheme of the Act. Amendment No. 8 makes clear that the Ombudsman must not delegate the power to make a direction under section 19A. Given the nature of the power the Government considers that it should only be exercised by the Ombudsman.

The Hon. CAROLYN PICKLES: The Opposition supports the amendments that were inserted in another place.

Motion carried.

FRIENDLY SOCIETIES (OBJECTS OF FUNDS) AMENDMENT BILL

His Excellency the Governor, by message, intimated his assent to the Bill.

ELECTRICITY CORPORATIONS (GENERATION CORPORATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 June. Page 1541.)

The Hon. R.R. ROBERTS: I support the second reading. Let me say from the outset that, as a supporter of ETSA over many years, I am one of the few people who were convinced early in the piece, and that is still my position, that the way the Government has proceeded with the breaking up of ETSA in the long term will be the best way to go for South Australia. Some 50 years ago a political colleague of mine, who I do not generally agree with, Sir Thomas Playford, was instrumental in setting up ETSA in South Australia for the benefit of this State. ETSA provided a vehicle for the Government to provide incentives for people to come to South Australia. As a statutory authority it provided the incentive of cheap power which was taken up by many

industries, including industries at Port Pirie and Whyalla. Those industries were able to expand and the Government was able to provide cheap electricity across the whole of South Australia for the benefit of all South Australians. The Government was able to generate income for South Australia in this way to supplement the State coffers.

I have been involved in the electrical industry and the Electrical Trades Union, in particular, which covers many ETSA employees, and over many years I have noticed the rationalisation of ETSA and the cooperation shown by ETSA employees to help ETSA become more efficient and reduce the cost of electricity which not only had benefits to them in respect of pay adjustments but ETSA was able to maintain a continuous supply of reasonably priced electricity for all South Australians. It now looks as though that cooperation and restructuring has been part of the process of fattening the sacrificial lamb for other people to benefit from later on.

The Opposition and I have been sceptical for some time that we were engaged in a process of setting ETSA up for privatisation. The Minister has denied that. I started to get some confidence last year on 1 July. We set up the transmission corporation and were told that it was necessary as it would set South Australia up for a bright future, but what has happened since then in South Australia? We have had an Industry Commission report and members will note that the Industry Commission is comprised of an august group of men and women whom the Premier recently called 'a bunch of whackers'. Doubtless, at the time the Premier was reeling from his budgetary problems and trying to divert the attention of South Australian taxpayers away from the incompetence of the budget situation and found some scapegoat to kick about. The Industry Commission—and as I understand it, it is the same Industry Commission that the Premier dismissed as a bunch of whackers—has recommended something the Premier agrees with and the recommendation has been held up as the holy grail and as something we ought to comply with: any dissent from those recommendations is to be frowned on and anyone who disagrees with the recommendation is pointed to as some sort of traitor to South Australia.

I do not want to go over all the arguments involved in the debate. However, I point out that my colleagues in another place, in Caucus and myself collectively have taken the position that we are too far down the track with ETSA to change the process now. But members on this side of the Council believe in the protection of ETSA for the benefit of all South Australians, to protect it from the rigours of privatisation, which we believe would be to the detriment of our fellow South Australians. I am not convinced by the Government's arguments that it is not about setting up this industry for privatisation, just as I have sat in this Parliament and been assured that certain things were going to happen with respect to water and the EDS contract when Democrat and ALP members questioned the Government.

We were berated and told that we were scaremongering. Unfortunately, we had to find out the hard way—after the event—and we are now looking at these issues through select committees and finding out that everything the Government said to us was not truthful. Again, I was sceptical when the proposal was put before us with a raft of other Bills with respect to the national grid. We were told then of the benefits that would flow to South Australians. From my observations there are not too many benefits there for the Mums and Dads in South Australia. Certainly, there are a few proposals which will affect big business, which will be able to contract for cheaper electricity, but clearly it will be years and years before there are any benefits for the Mums and Dads in South Australia.

I started to waiver in my resolve about the protection of ETSA when I was assured that we were not into privatisation and outsourcing of ETSA. I then got involved in some discussions about Leigh Creek and was told that there was no contracting out. However, on page 28 of the *Advertiser* (Tuesday 5 December 1995), I came upon an advertisement by the ETSA Corporation seeking expressions of interest for the provision of consulting services, mining and risk management, with a closing date of 13 December. One area in which they were seeking expertise was the preparation of tender specifications for contract mining. Clearly, members will see how my confidence started to waiver again about earlier assurances. We then went further along the track and got to the stage where we have been briefed by the Government, and I thank the Hon. John Olsen for the briefings he did provide because it is always helpful to get the official line. We were able to see what the big picture was that the Government is trying to achieve, and one Bill has already passed this Council.

I have always expressed concern about this Bill. It has been my view that we were talking about setting up generation systems for privatisation. I was assured that this was not true and my colleague in another place, Mr Foley, has had extensive discussions with John Olsen. I believe that most of those discussions have been productive and cooperative. There have been some amendments to the original proposals to satisfy the concerns of my colleague Mr Foley and sceptical people like myself. During discussions on this matter the Opposition did receive some documentation which is obviously an opinion provided for Cabinet or a Cabinet subcommittee in respect of the scope and nature of ETSA transmission. When one reads this document the alarm bells ring and the document demands further explanation and amendment.

I indicate to the Chamber that further amendments to the Bill are on file. Some amendments have been put together after discussion between the Minister and my colleague Mr Foley in another place and some have been put forward by the Labor Party. Many of the amendments are in response to our concerns generated by this document, which talks about 'the proposal in 3.2' on the second page of the document. I do not have the first page, but it would be interesting, I am sure, to find out why this action is being taken and at whose volition. The proposal to evaluate in this paper is summarised as follows:

> The ETSA Corporation would offer a proportion of the value of ETSA transmission to the private sector market.

Immediately the alarm bells start to ring, because it continues:

> Assuming a bidder comes forward, and is accepted, there would be a shared equity in the entity such that ETSA Corporation and the party each own 50 per cent of the business value.
>
> (For taxation and other reasons, consideration needs to be given to the form of the partnership and whether a sale of share equity or assets is an appropriate transfer methodology). The participation by the private sector of the ETSA transmission business would obligate the new owner to deliver economic benefits to the State which would be quantified and valued as part of the bidding process. The joint venture owners would contract out the management (operations and maintenance) of ETSA Transmission to an experienced operator who may be a related entity to the successful partner.

We are starting to talk about bringing in private people to be involved in maintenance and management. This document refers to further details of the proposal in attachment 2. However, when that truck wheeled around the corner of

North Terrace that part of the proposal did not fall off the truck.

Section 3.3 talks about the methodology used to evaluate the proposal. The proposal has been assessed according to the following criteria: first, potential legal issues associated with implementing the proposal; secondly, the potential to satisfy commitments made by South Australia at COAG in relation to competition policy; thirdly, financial impacts on ETSA and the South Australian Government; fourthly, technical feasibility; and, fifthly, the economic development impact.

The document then refers to legal issues, and this is where the alarm bells started to ring very loudly and prompted me to have recent discussions with the Attorney-General, on which I will touch in a moment. The document states:

> The proposal to sell 50 per cent of ETSA transmission assets without any requirement for legislative action could be accomplished by a sale of 50 per cent of the shares in a Corporations Law company that was technically a subsidiary of ETSA and which had been created to hold the transmission assets.

I stress that it had been created specifically to hold the transmission assets. The document further states:

> There would need to be an amendment to section 41A of the Law of Property Act to extend the present scope of easements *in gross*, e.g., to utilities as 'declared' by the Governor. This could be accomplished this parliamentary session in the Attorney-General's portfolio Bill.

I point out to members that that Bill has passed this place and does talk about easements *in gross*. I am certain the Attorney-General will give a broader explanation of the impact of that matter in his reply to this contribution, but I understand that the Bill talks about easements being required by authorities and other people working for authorities so that they can move across different properties. For instance, a person might wish to extend an electricity line across a property and an easement would be required. I point out that these easements will be required for water, gas and other services of like nature. Of themselves they are not all that alarming but, when read in response to this document, it makes one concerned.

I accepted the Attorney-General's offer to explain the system of easements *in gross*, and I am certain he will do that. The document talks about ETSA's statutory functions, and states:

> ETSA presently has its 'electricity transmission and system control functions' set out in sections 6(2) and 10(1)(c) of the ETSA Act. If ETSA was to Act in such a way as to put itself in a position where it could not perform those functions, it would be likely that an application for a declaration that ETSA was in breach of its statutory functions would succeed. An application for *mandamus* requiring ETSA Corporation to actually perform its public duty is also possible (the court has a discretion whether to grant these equitable remedies). These actions could be brought by a person with a 'special interest' in ETSA's failure to perform its functions, such as an employer of ETSA or possibly a consumer interest group.

This document points out that the courts are widening the traditional restrictions of *locus standi* to bring public law litigation. The document further states:

> A sale by ETSA of a significant proportion of its transmission assets, without any arrangements enabling it to fulfil its statutory functions, would provide a litigant's having a 'special interest' with a legal basis to seek a remedy.

Page 4 of the document talks about the structure of corporate arrangements, as follows:

> Under the present arrangements the structure of ETSA consists of the ETSA Corporation, as established under the ETSA Act, as a parent company and four subsidiaries established under section 24 of the Public Corporations Act 1993 (SA). The subsidiary companies are not yet operating in a practical sense, with no staff or assets having been transferred under schedule 3 of the ETSA Act. The transmission assets are held therefore by ETSA Corporation. Inevitably, regulations under section 25 of the Public Corporations Act (that are required to go through the parliamentary tabling processes) would need to dissolve (at least) the present transmission subsidiary—but that would have been required in any event. In the short term, the company would continue to 'sit on the shelf'. Given the nature and structure of the transmission assets, a sale of 50 per cent of those assets is best accomplished—

and this is the worrying part—

> by selling 50 per cent equity in the whole of the assets rather than selling a physical half of those assets. A sale of 100 per cent of those assets would give a greater scope for more complex 'financing' style arrangements, including a sale and lease back (such as with the generators), or lease and sublease back. A sale of 50 per cent of the whole of the assets can only be accomplished by the sale of shares in a Corporations Law body corporate in which the transmission assets (including the easements) have been vested.

When the Attorney-General explains easements *in gross* he may wish to address that point also. The document continues:

> The Corporations Law company in which ETSA and its joint venture partner each had a 50 per cent shareholding, and which had articles of association that entitled ETSA to appoint the majority of board members (some of these may be with the advice and consent of the joint venture partner)—

This is advice to the Government, which suggests that, in order to comply and to give advantage, there ought to be some toing-and-froing and some agreement before the ETSA board members are appointed. The document states that 'some of these may be with the advice and consent of the joint venture partner'. I find that quite disturbing. The document continues:

> would enable that company to be defined as an 'electricity corporation'—

so an Electricity Corporation is created—

> for the purposes of the ETSA Corporations Act 1994 (SA). Formation of an ETSA subsidiary would require the Treasurer's approval pursuant to section 23 of the Public Corporations Act.

The advantage of a joint venture being an electricity corporation is further explained, but let me say that if someone were of a mind there would be no trouble, given this Government's record of flogging off the milch cows of South Australia, in achieving that goal. The document continues:

> The advantage of the joint venture being an 'electricity corporation' is that it would:
>
> · deal with the problem of 'statutory functions'. A sustainable argument could be made that ETSA Corporation was continuing to fulfil its statutory transmission functions through a subsidiary company, which would be an 'electricity corporation' pursuant to the ETSA Act. This could be reinforced by documentation, such as the memorandum of articles, a business charter, performance measures, etc., that would be approved by the ETSA Corporation (and presumably by the private joint venturer as well).

I would imagine so, because this proposal has suggested that they ought to collude before they start. The document continues:

> It would also enable an easy transfer of assets and liabilities and staff, if that was necessary, to the Corporations Law company. Assets (and liabilities) can be transferred to another 'electricity corporation' (or proposed electricity corporation) by ministerial direction, pursuant to part B of schedule 3 of the ETSA Act.

In other words, we are now going back to its ministerial direction. This advice is deliberately designed to avoid the scrutiny and approval of the Parliament. The document continues:

> ETSA Corporation may be directed to carry out work directed towards the transfer of assets and liabilities (paragraph 2 of schedule 3).

However, I point out that when those documents arrived in the hands of the Opposition those schedules were not added. It was only some days ago that I came into possession of what I believe is the last page of the document. I make very clear that, as a result of our concerns with respect to these matters, my colleague Mr Foley undertook discussions with the Hon. John Olsen in another place. He pointed out to us that the Government, whilst it had this advice, would not take it and, in support of that, was kind and sensible enough to provide to my colleague in another place advice which I will read. Recommendation 4.1 states:

> It is recommended that the Cabinet Committee note that the proposal to establish a joint venture for ETSA's transmission has both financial and economic benefits for South Australia, but the proposal may have difficulty in meeting competition policy obligations.

Recommendation 4.2 is as follows:

> It is recommended that further work to evaluate the feasibility of establishing a joint venture for transmission and outsourcing management is not warranted at this stage.

So, one starts to feel comfortable. Recommendation 4.3 states:

> It is recommended that the Cabinet Committee request ESRU to reconsider the proposal once the findings of the Industry Commission—

that is, 'those whackers'—

> review into structural arrangements in the South Australian electricity industry are known and to compare the benefits from this proposal with other options proposed by the commission.

Gone was the confidence that we were starting to establish. Therefore, that is the reason why members will note that the Opposition has proposed further amendments to ensure further that those assets that now belong to ETSA Transmission will not be outsourced during the life of this Government.

I have been contacted with respect to this matter by a number of concerned citizens in South Australia who are obviously loyal to ETSA, and I am advised—and I have no documentation with respect to this matter, but it has been put to me by an authority which has proven to be reliable in the past—that in the recent past the ETSA board did consider a proposal to sell ETSA transmission assets to the tune of some $300 million. All this at a time when we were being assured that there was no intention at all even to consider whether there would be any privatisation in South Australia.

In concluding these remarks, I wish to raise another issue. However, I do not want to go through each clause of the Bill, because they have been widely canvassed in another place and, by and large, agreement has been reached. Part of this proposition and part of the reason why the Opposition has cooperated with the Government to try to get an agreement on this Bill, hopefully in the long term interests of South Australians, is that some offsetting payments will come to South Australia after they have their transmission and generation systems together.

It has been expressed to me that there are compensatory payments which, over a period of some 10 years, would be worth almost $1 billion. However, given the budgetary black holes and given that those agreements were made by the outgoing Federal Keating Government, one is not really concerned, and I pose the question, 'Are those levels of compensation that were proposed and guaranteed by the outgoing Keating Government guaranteed under the Howard-Costello Government with respect to compensation payments for South Australia's giving up its rights to run and function without any encumbrances its own electricity supply which was developed and which has served the whole of South Australia very well over the past 50 years?' I support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I do not have responsibility for the Bill for the Government, but there are issues that have been raised by the Hon. Ron Roberts to which I should respond, particularly in respect of the legal issues as they relate to the Law of Property Act and the portfolio Bill which has passed the Parliament.

I have noted the reference that the Hon. Ron Roberts has made to an advice which talks about a proposal to sell 50 per cent of ETSA transmission assets without any requirement for legislative action and the way in which that could be achieved. In the same context, it also says that there would need to be an amendment to section 41A of the Law of Property Act to extend the present scope of easements *in gross*, for example, to utilities as declared by the Governor, and that this could be accomplished this parliamentary session in the Attorney-General's portfolio Bill.

In fact, there is no link between the two. Whilst it clearly indicates that an amendment is necessary to enable the 50 per cent sale of ETSA transmission assets and that there would need to be an amendment to the Law of Property Act, as I said, the two are unrelated. What I want to do is really put this into a proper context. As the information to which the Hon. Ron Roberts referred indicates, it is possible to deal with 50 per cent of the ETSA transmission assets, but it is not necessary to make any amendment to easements *in gross* in the Law of Property Act to facilitate that change. That can occur independently of the easements *in gross*.

Let me explain for members what is meant by 'easements *in gross*'. In 1981, when the Liberal Government was last in government, I brought in amendments to the Law of Property Act which made some quite significant changes to the way in which public utilities could gain and have recorded in their names easements relating to property over which transmission or pipelines or other facilities had to pass. We did that because, putting aside easements *in gross*, if the Electricity Trust, for example, wished to put powerlines over land before 1981, it had to go along, talk to the landowners and all those who had an interested in it—including mortgagees and those who might have a lease—and negotiate the taking of an easement, and it would have generally to pay for it.

I remember when I was acting for clients in respect of whose land ETSA wished to take an easement that we would always claim a value of that easement. ETSA was not too happy about that because, if it had to pay an amount to acquire an easement so that it could allow its powerlines to pass over a private property, that would add to the cost of the provision of power. On the other hand, there were properties where the high tension powerlines and other powerlines passing over them had an adverse impact on the use of the land. For example, crop-dusting was potentially compromised in some areas. So, I would negotiate with the Electricity Trust on behalf of a client for the granting of an easement for consideration.

In some cases, the easement was then registered at the Lands Titles Office. To enable it to be registered, there was a dominant tenement—and that involved the land to which the easement was attached which would have been kilometres away—and it was over a servient tenement. So, if a piece of land gave to its proprietors a right-of-way over another piece

of land, you had a dominant tenement and a servient tenement, and you could not register or create the easement unless you had that relationship. When we established easements in gross in 1991, they provided that a public utility such as the Electricity Trust could still acquire easements but they would be recorded on a servient tenement or a title as a right-of-way granted to the Electricity Trust. They would not have to be linked back to any dominant tenement. In those circumstances, you could have these easements in gross snaking across the countryside without ever having to be linked back to a dominant tenement—and that facilitated the extension of powerlines or gas pipelines or whatever across the State.

When the South Australian Gas Company ceased to be a public utility and became a privately owned corporation, I was requested to amend the Law of Property Act to allow the extension of the opportunity to create easements in gross to those bodies which were not public but which nevertheless provided resources such as power or gas or water to the community. They were, in effect, public utilities. I was prepared to accede to that, because the Government would not be able to acquire easements in gross in an efficient manner; it would have to go through the old process, which is still available, of negotiating the acquisition of an easement over a piece of land but tying it back to a dominant tenement. That process still exists, and if the Electricity Trust ever became a private body it could still have an easement over land to enable its powerlines to cross, but it could not have an easement in gross. It could under the amendments which were passed, but they were not a necessary ingredient of any consideration of the structure of ETSA because, as I said, that is what ETSA used to do prior to 1991, and it could continue to do that under the current law as can the gas company at the moment.

However, the Government took the view, as did I personally, that there was not much sense in providing these barriers to, for example, the gas company extending its gas supply and being somewhat pedantic about the way in which easements could be granted. I recognise that you cannot have easements in gross granted to all and sundry or all these registered easements without any coherence to them without at least some measure of order, and that is why in the amendments to the portfolio Bill made to the Law of Property Act we are seeking to ensure that there is approval by the Governor by proclamation of a utility providing these services so that not everyone will have access to them.

The other point that needs to be made is that, following the privatisation of the Pipelines Authority, in that piece of legislation, which passed both Houses, there was the recognition of, I think, Tenneco as the body which would be able to acquire easements in gross. So, there is already a precedent for a private sector body to gain access to easements in gross. Easements in gross do not compromise the rights of the citizen over whose land these easements are required. The body acquiring the easement still has to pay compensation, which is the value of the easement, however that might be established.

I wanted to put on the record that, although I understand why the Opposition, through gaining access to this document, might be cynical about the approach of both the Government and me, there is no sinister connotation in this, although the relevant paragraph is very poorly drafted. There is no inherent link between the granting of an easement in gross and the joint venture proposal which is being discussed. I hope that I have adequately explained the relationship between easements in gross and ordinary easements and that I have explained the amendment which went through in the portfolio Bill. I was anxious to do that because I did not want anyone to suggest that in some way the Government or I have adopted a deceptive approach to ensure the achievement of a particular goal, a perceived goal or a suspected goal in relation to the ETSA Corporation. That has not been either the effect or the outcome of what has occurred in relation to the amendment to the Law of Property Act. If in Committee members have further questions to raise about this issue, I am happy to seek to explore them further.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contribution to the second reading. I presume we will have a reasonably lengthy Committee stage to this Bill, so I do not intend to respond to all the aspects of issues raised by the Hon. Mr Roberts and other members. However, I wish briefly to refer to the Hon. Mr Roberts' contribution. He quoted from a document which had been leaked to the Opposition during the past few months. I am advised by the Minister that this particular document did not go to Cabinet, that it was a working or technical paper which was prepared for discussion to sub-committee level, and that it contained some wrong information which was never used. I am informed that many working papers were prepared which subsequently were never used.

The Attorney-General has also provided further explanation in relation to some technical and legal aspects of some provisions of the material raised by the Hon. Mr Roberts. As members would know, the Minister has ensured that there has been widespread discussion in relation to the scope of this generation Bill with about five unions and members of Parliament also in relation to what should or should not be included in the Bill. I am advised that, in the early stages through its representative, the Labor Party indicated broad acceptance of the Bill but later indicated that it wished to amend the legislation.

We will consider in Committee some further amendments which the Minister has advised me unacceptably fetter the commercial scope of the ETSA Corporation. On behalf of the Minister, I indicate that the Government is not prepared to accept those provisions. I would need to seek detailed advice, but it may well be that should those provisions remain in the legislation the Minister would not wish to proceed with this Bill. As I have said, I will seek more detailed advice in relation to the Government's position on that aspect. The Government will strongly oppose the key aspects of the Hon. Mr Roberts' amendments in the Committee stage. I thank honourable members for their contributions to the second reading stage.

Bill read a second time.

GOVERNMENT BUSINESS ENTERPRISES (COMPETITION) BILL

Adjourned debate on second reading.

(Continued from 9 July. Page 1657.)

The Hon. SANDRA KANCK: The Government is claiming that the framework agreed by COAG and enshrined in this Bill 'recognises the sovereignty of the States and the crucial role they play in the implementation of competition policy.' All I can say to that is: what a joke! By opening ourselves to competition policy, our Government—both the former Labor Government which started it all and the present

Liberal Government which is following in its footsteps—is achieving the exact opposite. It is effectively reducing the State's sovereignty and turning the State Government into little more than a regulator. Often when I address groups I tell them that I do not think there will be a future for a State Government within 20 years. Instead, we shall be dancing to a tune set by others outside this State, and those others are likely to be business operators with no interest in the identity or survival of South Australia.

The Minister, in his second reading explanation, said, 'It is intended initially that the prices oversight regime will be applied to the electricity and water sectors.' That served to remind me that at that time tenders were being sought for the private management of our water supply last year. I publicly stated that we would be replacing a public monopoly with a private monopoly, which was not really the aim of competition policy. The Government, in planning to put a competition commissioner or two in place, is now admitting that what I said 12 months ago is correct: we have replaced a public monopoly with a private monopoly, and it has not furthered anything from the point of view of competition policy.

As we have only a 500 megawatt interconnection to allow energy transfers across our borders, ETSA is regarded as a virtual monopoly generator and supplier of electricity in this State. This matter was raised with me in May at my briefing on the National Electricity (South Australia) Bill, which was introduced to allow South Australia to become part of the national electricity market. I was informed then that there were concerns about ETSA having what was described as a captive market and the need to have some sort of regulatory mechanism in place to ensure that it did not take unfair advantage of its position. I expressed surprise at the time that such a view was held, because, after all, ETSA has been in that monopoly position for decades and it has not taken advantage of South Australians. We have seen it act responsibly by using whatever returns it has made to add to South Australia by extending the electricity grid into rural areas or beginning the process of undergrounding power lines. Even if ETSA were apparently to overcharge consumers, as the Minister for Infrastructure has told us on a number of occasions that ETSA will not be sold, we should be certain that that money will stay in the State so that we have nothing to fear. Looked at from that perspective, this proposed new body would appear to have little purpose.

One of my concerns about the national electricity market is that we are told that the increasing competition will result in a reduction in the price of electricity. Surely, that will tend to discourage energy conservation and, therefore, negatively impact on the production of greenhouse gases, and a competition commissioner might well contribute to that negative impact by keeping the price down. There is nothing in the Bill which requires the competition commissioner to take environmental matters into account. If my prediction is correct and lower prices result in the increased use of energy and, therefore, more greenhouse gas emissions, what are the tangible benefits about which the Minister trumpeted in his speech? Has the Government considered the likely impact of lower energy pricing and the potential increase in energy use on the greenhouse effect?

The Minister stated that it is intended initially that this mechanism will apply to water and electricity. What does he mean by 'initially'? What other bodies or markets will it eventually be monitoring or policing?

The agreement that the State Government has signed requires the party to consider setting up a body to oversee pricing. If such a body does not exist at State level, the ACCC will fulfil that role. That was initially agreed by our State Government. What will be the cost of setting up this body, bearing in mind that the ACCC could feasibly do it? Will the Minister inform the Council of the cost of setting up this regulatory agency and the ongoing costs of operation? How many staff will it have? How many competition commissioners does the Government envisage will ultimately be needed, and will they be full or part-time positions? Whatever these costs might be, what are the benefits that accrue to South Australia by setting up our own regulator as opposed to letting the ACCC do it?

As regards the choice of commissioners, what sort of people with what qualities and experience will the Government be looking at appointing? At my briefing on the Bill I expressed concern about the inadequacy of the conflict of interest provisions in respect of the competition commissioners. I think that the Government should look at various other bodies that it has set up, at least in the 2½ years that I have been in this Parliament, where the conflict of interest provisions are more extensive than are set out in this Bill. Why has the Government kept it to such a minimalist approach?

As honourable members will be aware, the Democrats have many reservations about competition policy. I am not convinced of the necessity for this new body, and I foresee that it will be another costly millstone around the necks of people in this State. It follows in the path of the competition policy Bill which the Democrats recently opposed. This Bill would appear to be quite innocuous, but it should be looked at as part of the grander plan. For this reason, I will support the second reading so that further discussion can take place, if necessary, but the Democrats will ultimately oppose the Bill on third reading.

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

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 11 July. Page 1735.)

The Hon. CAROLINE SCHAEFER: I support the Bill. This Government was elected in 1993 with a very specific mandate: to get the State's finances in order. It is history now that an audit was commissioned soon after the Brown Government took office and a decision was made that assets would need to be sold and departmental expenditure cut. It is also history that this Government has fulfilled its promise to the people of South Australia and put its financial house in order. We have substantially reduced the State's core debt and we are on track for a budget surplus, small though it may be, for 1997.

In a tight budgetary climate such as South Australia has, it is easy to dwell on the negatives, easy to talk about what is perceived to have been taken away and, sadly, it is easy for that negativity to take hold until the doom and gloom merchants fulfil their own prophesy. We have heard much in the past few years about the services that this Government has supposedly withdrawn. I have a basic belief that many of those services are just as well provided by the private sector, and that is indeed proving to be the case. However, one of the things which Government must always be responsible for is capital works. Let private enterprise get on with doing what

it does best with as little interference as possible and let the Government spend its money where it is of most lasting benefit.

Today I will dwell on some positives: some of the infrastructure, long neglected by Labor, that has been put in place by this Government. In particular I have looked into capital works in rural and regional South Australia—that vast area outside metropolitan Adelaide that was so conveniently forgotten for so long. First and foremost I commend the Minister for Transport for her ongoing commitment to the sealing of rural arterial roads. When I was preselected I remember being interviewed and asked what I saw as the major issues in rural South Australia. My unhesitating answer was 'roads' and it still is. Only if you have lived at the end of a nearly impassable dirt road can you begin to understand the effect that road maintenance has on accessibility. It also impacts on competitiveness, freight costs, communication, health and education—and the list goes on.

This Government has now sealed 11 kilometres of the Kimba-Cleve Road, which might not seem a great deal but is more than has ever been sealed before, and it has allocated another $500 000 for this financial year. It has made a total commitment of $5 million to complete the road by 2001, and I look forward to attending the opening which will at last give Kimba residents reasonable access to the rest of Eyre Peninsula.

Other rural arterial road expenditure for 1996-97 includes $500 000 on the Lock-Elliston road, the sealing of the Kangaroo Island coast road at an estimated total cost of $12 million and, of course, the major expenditure of the sealing of the Morgan-Burra road. It is worth noting also the considerable expenditure on the main Eyre Highway, the Sturt Highway and the Adelaide to Port Augusta road passing lanes. It is also worth noting that, in spite of budgetary cuts, the Department of Transport expenditure on construction and maintenance has moved steadily from $197 million in 1991-92 to $251 million in 1995-96. It is estimated to be $254 million for the 1996-97 financial year.

The Hon. Diana Laidlaw: Good result.

The Hon. CAROLINE SCHAEFER: A good result. Perhaps more spectacular has been the capital expenditure on education and children's services. We hear constantly of the dastardly deeds of the Minister of this portfolio and it would be easy for the casual observer to think that everything was grinding to a halt. Many of us over the years have seen how badly in need of maintenance were many of our schools. In 1992-93 the former Government spent $5.594 million on 40 school sites. I have no information as to where those schools were, but I would hazard a guess that very few were in the country.

In 1995-96, 25 schools had $10.478 million spent on them—just double in three years. That is surely a stunning difference in such a short time. A further $2.8 million was spent on children's services buildings, totalling $13.3 million on capital works for that department. Some of the more major of these works included the redevelopment of the Goolwa Primary School, additions to Hahndorf Primary School, an upgrade of Mallala Primary School and the commencement of the upgrade of the Mount Gambier High School. Work has also commenced on child care centres at Coober Pedy, Kingscote and Port Lincoln TAFE.

Although I wish to speak mainly on capital works today, it is also worth noting that DECS has an approximate expenditure of $230 million per annum in rural South Australia. The Government has continued its commitment to the isolated children's allowance. When we took over government the isolated children's allowance was $730 per annum. In three years it has moved to $1 080 for 1997. That is an increase of nearly 50 per cent over three years. It has also maintained its commitment to distance education via the open access college to mobile kindergartens and to the exciting announcement of $15 million to be spent on DECSTech 2000, which will most assuredly help those in isolated areas. As an aside, I must mention that technology such as DECSTech 2000 will be of little use to those who do not have access to an ISDN cable.

In the area of health, there has been major expenditure on much needed maintenance and upgrading. Many rural hospitals were in a very sad state of disrepair. I recently visited Port Lincoln Hospital with the Minister for Health and its staff and patients are absolutely delighted with the $6.3 million upgrade that is now taking place. Several years ago I visited the Kangaroo Island Hospital at Kingscote and came back to report to the then shadow Minister that its kitchen in particular was in a disgraceful state. I am delighted to note that a $2.5 million upgrade was started there in 1995-96. Ceduna Hospital has also benefited from $900 000 for the development of long-stay facilities and many other small health facilities that I have visited in the past two years have also had upgrades and maintenance performed which, while minor in the scope of this budget, have been greatly appreciated by those who live and work there.

In 1995-96, 26 small sporting clubs benefited by an approximate total amount of $757 000 under the regional sports facilities grants scheme. The largest single grant was for $100 000 for the Hawker Sporting Club, but many other areas also benefited under this scheme. Grants ranged from $40 000 to the Lock District Community Centre through to $2 900 to the rural city of Murray Bridge and included: $80 000 to the Whyalla Hockey Association; $5 000 to the Mount Gambier Cricket Association; $25 000 to the Lameroo Sports Club, and so on. The money was well distributed in small areas.

Regional capital expenditure on tourism for 1995-96 totalled $4 million, with some of the major works being $200 000 on the Penneshaw Gateway, $216 000 at Wilpena and $305 000 on the Barossa Convention Centre. Other major capital works which must be mentioned include the commenced construction of the $13 million South-East TAFE Institute at Mount Gambier, the $2.1 million stage 2 development of the Onkaparinga Institute, the welcome and now completed $5.6 million new police complex at Port Augusta and fire station upgrades at Mount Gambier and Whyalla. In addition to the bricks and mortar capital expenditure the Government also spends about $65 million per annum on water and the maintenance of water facilities through the country division of SA Water.

In summary, the Government has it right: it has reduced debt, reduced Government expenditure, increased cash flow, decreased unemployment and the Public Service but has not decreased services to the people of South Australia and, as I have just illustrated, it has certainly increased capital works expenditure and has at least recognised that there is a valuable proportion of the South Australian population who live and work outside the metropolitan area. The Government has recognised the existence and needs of these people in tangible and long-lasting ways through capital works. I support the Bill.

The Hon. A.J. REDFORD: I support the legislation and

am pleased to see the budget is based upon an improved budget situation since the election of the Brown Liberal Government in December 1993. The strategy of the State Government's budget policies has been a commitment to economic development accompanied by structural change in the South Australian economy. It is interesting to see what the objectives of this Government are and just how tough they are going to be to achieve. The targets through to the year 2000 are a Gross State Product annual growth of 4 per cent, annual growth in plant investment of 7 per cent, annual employment growth of 2.8 per cent and annual export growth of 15 per cent. Based on any standard they are significant targets and it has been acknowledged by the Government that South Australia on average has not attained those targets in the past 20 years.

Recently, there has been some criticism of the Economic Development Authority and the State Government's strategy of encouraging investment in South Australia. In that regard the Industries Assistance Commission has commented, and I will turn to that later. At the outset, it is important to note that the Economic Development Authority and its strategy can be said, based on any standard, to be a success regarding the amount of investment facilitated during the 1994-95 financial year. I understand that investment facilitated by the authority totalled $315 million, with 4 400 direct jobs created and 826 jobs retained. The Hon. Terry Roberts would point out that that is about equivalent to a town the size of Millicent and its surrounds. It is not a performance that anyone can sneeze at. We have all heard about Motorola, Australis Media, Westpac National Loan Centre and Bankers Trust, but a number of local companies have also been assisted through this program. I understand that some 60 per cent of funds and energy have gone from the authority towards local companies, and I will give some examples. I refer to a $3.5 million investment by Solar Optical.

The Hon. T.G. Roberts: What about Balfours?

The Hon. A.J. REDFORD: I will come to them in a minute. R.M. Williams has been assisted and Southcorp, in terms of relocating its heating and cooling business, which is a significant investment in this State, has been assisted. I refer to Castalloy, involving a $1 million investment for 70 jobs; Sabco, 80 jobs; Penrice, an investment of $170 million and Vision Systems, through the authority, has announced 150 jobs. If one wants to look at the confidence displayed by private investors in this State one need look no further than Western Mining's recent announcement of a $1.250 billion investment in Roxby Downs, the biggest investment in that company's 65-year history. The Hon. Terry Roberts asked about Balfours. At this stage I have not heard or seen any indication that Balfours will operate other than as it currently operates. In those terms it seems that for the Government to put money into Balfours is effectively putting money into the pockets of the private owners who have no plans to expand investment or create any new jobs, and it would be highly irresponsible of the State Government to put in money, in whatever form.

The Hon. T.G. Roberts: You can help companies without cash grants.

The Hon. A.J. REDFORD: Absolutely. The company itself is being helped because the Government is facilitating a new and improved management structure, which I am sure the honourable member would be pleased about. It is also important to look at performance, which I have briefly touched on, against the objectives outlined by the State Government. It is clear that in the 1991 to 1995 financial years South Australia has lagged behind the rest of Australia in terms of economic growth. Over that period the growth in Gross State Product was 1.4 per cent compared with the national average of 2.6 per cent. In that regard and looking at the figures on that basis there is nothing to be excited about. However, I remind members that there is always a lag time between the time when investment is made and the time when income is generated. The fact that we are lagging and have lagged behind in the period 1991 to 1995 probably reflects the investment climate in South Australia between 1986-87 through to 1992-93.

Also, it is interesting to note that in the past 12 months capital expenditure in South Australia—and this is the good news—increased by 22.5 per cent, compared to 16.8 per cent nationally, which is a very encouraging figure. If one splits up the capital expenditure and looks specifically at plant, which is used to create jobs and profit and which will be used to generate income for further investment in South Australia, we see that there has been an increase in South Australia to the extent of 41 per cent compared to a national growth in the same period of 17.9 per cent. Looking at those figures one might view the future of South Australia with some optimism. It is interesting to see that growth of exports to East Asia has increased some 115 per cent in the past five years. I freely acknowledge the role of the former State and Federal Governments in encouraging, perhaps not in the most efficient manner, and highlighting some of the economic opportunities available with our near neighbours.

It has been said that five key elements are involved in economic development, and those key elements have been adopted by this State Government. The first element is to enhance the competitive nature of South Australian enterprises; secondly, to build an attractive business environment; thirdly, to encourage new investment; fourthly, to improve productivity and innovation; and, fifthly, to improve the infrastructure. In each of those elements the State Government has initiated some key strategies to improve South Australia's economic position.

In my view the Industries Assistance Commission really misunderstood South Australia's position and, quite frankly, when one analyses some of the figures, which seem to bear no relationship to any reality (the IAC said that we spent some $614 million per annum, and I have no idea where the commission got that figure because it is not stated in its report), it seems to me that the inquiry into State incentives to invest can only be described as politically motivated. One could be forgiven for thinking that Bob Carr, the Labor Premier of New South Wales, in a fit of pique, having missed out on getting the Westpac national loan centre, marched off to the Industries Assistance Commission and said, 'Hang on, we got beaten on this one: you had better have an inquiry into that and see whether you can slate someone.'

The South Australian Government, as was its wont and choice and, quite frankly, having regard to the ultimate report, decided not to cooperate. The Industries Assistance Commission then decided to pluck figures out of the air and come up with this extraordinary amount of $614 million *per annum*.

The Hon. T.G. Roberts: That's the first time I have heard the IAC being knocked by the Libs: I have heard it being knocked by the Nationals.

The Hon. A.J. REDFORD: It is not the first time. I am following my Leader's footsteps in that regard. I happen to agree with everything he said on that topic. A number of different strategies have been adopted in these assistance and

incentive schemes, and it would be a good opportunity to place on the record some of the assistance and incentive schemes in which the State is involved in an effort to improve its export performance and general economic condition.

The 'Let's Get South Australia Really Working Program' was launched in January 1994 and offers businesses assistance in four areas: WorkCover, payroll tax, the ability to compete globally, and development planning. The program comprises a WorkCover levy subsidy scheme, an export employment scheme, a payroll tax rebate scheme, a business development plan scheme, a traineeship scheme and the young farmers' incentive scheme. As at 31 December 1995, over 6 000 employees and more than 1 000 firms had accessed the program. Indeed, the WorkCover levy scheme benefited firms, employing 1 683 people—for the benefit of the Hon. Terry Roberts, about the size of Penola.

The New Export Challenge Scheme facilitates export marketing access by effectively lowering Austrade's export market development grant reimbursement threshold. This scheme assists small to medium sized businesses in developing new export markets, offering assistance to companies too small to qualify for a Federal Government export market development grant. During the last financial year, 95 businesses in South Australia received more than $570 000 in reimbursements for expenditure incurred in developing export markets. For the 1995-96 financial year, 143 businesses submitted claims worth almost $1 million, an increase of more than 60 per cent in the number of businesses and assistance applied for. They are welcome figures. That is an increase of some 60 per cent in the number of companies that are actively becoming involved in export market development.

The second scheme is the Business Plan Development Scheme, in which $2 million was made available to assist the development of business plans focusing on export development; 90 companies were assisted in 1994-95 at a cost of $400 000. The Small Business Best Practice Program provides up to 50 per cent financial support to engage a consultant to assist development of benchmarking and best practice programs in small business for a period of 12 months.

The Small Business Mentor Program for business owners can be used as a reference to test new ideas and new direction, and that will pay up to 50 per cent of fees for 12 months. The Main Street Program enables new communities to enter a program that stimulates economic activity, community involvement and tourism in both metropolitan and regional areas. In the 1994-95 financial year 15 projects were funded.

Other projects are conducted in conjunction with the Federal AusIndustry program. I was fortunate enough to attend the launch of the AusIndustry initiative, and one could not help but be impressed with this joint Commonwealth-State initiative.

The Hon. T.G. Roberts: That is all petty cash. Where do the hundreds of millions of dollars go?

The Hon. A.J. REDFORD: You don't take as gospel everything that the IAC says, particularly when it plucks figures out of the air. It is important to look at the other key elements. One needs to consider the targeted Government strategies on which the Government focused to make South Australia's economy international in its outlook. A sum of $20 million was allocated for the upgrading of the Adelaide Airport; $8.8 million was allocated for employment incentives for business; $8 million was allocated for tourism infrastructure and marketing; $3.3 million was allocated for mineral exploration; and $2.6 million was allocated for strategic development. One can see by the very nature of those investment items that South Australia will not see the benefits of some of this infrastructure investment for some years yet. The Government also targeted specific industry sectors, and I will go through some of those in due course.

Other issues relate to the business climate in which business is expected to operate, and I will give some examples. The electricity tariffs for small and medium businesses were reduced by 22 per cent from 1 July 1994, and there have been other reductions in the interim period; payroll tax rates have been reduced from 6.1 per cent to 6 per cent; and there has been a reduction of 50 per cent for new staff employed and 10 per cent for existing staff employed on new export activity.

Water charges for industrial users have fallen, and the new Industrial and Employee Relations Act, which allows workers to operate in a freer environment, is now starting to take effect. Indeed, the enterprise agreements that have been agreed to of late have shown a great deal of cooperation between workers and employers in a way that we perhaps have not seen in the past. Certainly, I have seen a couple of decisions made where enterprise agreements have been approved, and the ingenuity and flexibility associated with those agreements has been quite positive, although I concede that some of them are difficult.

I mention also reforms to the motor industry, programs relating to stamp duty concessions and exemptions, the new land tax rebate scheme for land subdividers, improvement in transport infrastructure and a reduction in port charges by some 13 to 15 per cent all of which are factors that affect the business climate in South Australia.

It is also important to note some of the public sector reform initiatives that have occurred. We have had standardisation of public sector software usage and, indeed, the EDS contract is part of that process. Work force reductions to enable us to bring the budget back into the black have also occurred. Outsourcing, including the privatisation of our container port, the EWS Department outsourcing and the corporatisation of ETSA have all had a part to play. I refer also to the reform of the public hospital system. Indeed, I am hearing good reports out of Modbury Hospital about the nature and extent of the service that has been provided under its private management.

Finally, in the area of prison management we have seen the operating costs reduced by about 25 per cent. So, public sector reform in this State has continued apace. Outsourcing in relation to those areas that I have also mentioned and the concept of contracting out and competitive tendering (and I will deal with that in a later speech on another topic today) has also had some part to play.

The single biggest problem this State is its public sector debt, and what matters is not that we had a debt but that we got nothing for the debt. When Sir Thomas Playford incurred substantial debts on the part of South Australia, we managed to accumulate quite significant public assets as a consequence. Unfortunately—and I know this point probably has been laboured—the public sector debt incurred during the 1980s did not lead to an increase in public sector assets to the same extent. If we had an increase in public sector assets to the same extent as we had an increase in public sector debt in the 1980s, I doubt whether South Australia would be suffering the significant financial and structural

problems that we currently face.

It is important to note that, when this Government was first elected, South Australia was overspending by more than $300 million a year. By 1997-98, the books are expected to be in balance and the public sector debt as a percentage of gross State product will fall to around 19 per cent. To put this in its proper context, the Victorian Government expects its public sector debt to fall to only 23 per cent by 1997-98. To some of those people who are critical of this Government's not achieving reform as quickly as our colleagues in Victoria, I would suggest only that they need to look at the figures.

It is important to note that the cost of net interest payments which totalled $900 million, or 15¢ of every Government dollar, was about $6 000 per person when we first took office. As I understand it, the debt is anticipated to fall to $6.5 billion by mid 1998. In effect, if one wants to individualise it, that means that the debt of $6 000 per person that existed when we took office in late 1993, increasing at the rate of $600 per year per person, will have fallen to $4 500 per head by mid 1998. That is not an insignificant achievement.

Indeed, when one considers the sorts of histrionics we have had from members opposite about asset sales and when one goes through one's daily life, one realises that it is hard to understand why members opposite have conducted themselves in such an hysterical fashion. I will give some examples: the sale of the State Bank has made no difference to the customers of South Australia. Indeed, some of the employment opportunities to staff of the State Bank have been advanced. The Pipelines Authority of South Australia—

The Hon. Anne Levy: Are you a customer? How do you know?

The Hon. A.J. REDFORD: Yes, I'm a customer of the State Bank.

The Hon. Anne Levy: So am I, and it made a difference to me.

The Hon. A.J. REDFORD: Perhaps I'm a smaller customer and they look after their small customers. In any event, the Pipelines Authority of South Australia was sold. I defy any ordinary South Australian to list the difficulties or the problems confronted by ordinary South Australians with the sale of that asset. The same applies to SGIC, which was sold off, and there are various other enterprises. However, at the end of the day, the services are still being delivered to ordinary South Australians in the same way as they would have been delivered had they been held in public ownership. At the same time, we are managing to reduce our debt so that moneys that were used to pay interest on that enormous debt can be used for more important things such as health and education.

It is also important to look at this Government's record in relation to small business initiatives. There are in South Australia more than 62 000 small businesses, which account for 95 per cent of all businesses in the State. They employ over 200 000 South Australians, and they represent one half of all private sector employment and one third of all employment in South Australia—an enormous part of our economy. It is my view that, if there is to be any substantial and significant growth in employment in South Australia, it will come from the small business sector.

The Small Business Advisory Council was established in February 1995 by the Minister for Industry, Manufacturing, Small Business and Regional Development to do four things: first, to provide advice to the Government on small business matters; secondly, to act as a two-way communication channel between the small business community and the Government; thirdly, to identify issues of concern to small business and propose policies and programs to address those concerns; and, fourthly, to provide advice to the Minister at his request on the implications for small business of more general policy matters.

Some of the important initiatives arising from that are an improvement in relation to financial accessibility by small business. They have done that by expanding the Crisis Management Program at the Business Centre, the development of a series of workshops on applying for bank finance and the development of new reporting arrangements to improve account payment performance by Government agencies. I must say that there was a time in the 1980s when I did some work for the Government and, at one stage, I found that it was the slowest payer of any substantial institution. One cannot underestimate the impact of that upon a small business.

The other principal initiative of the Small Business Advisory Council is to look at the cost of compliance with Government regulations. I know—and I am one of these—that a large group of people look with enormous cynicism at the notion of deregulation. In the 2½ years since I was elected to this place, I am not sure that I have seen many Acts or regulations repealed, but I have seen an enormous amount of legislation pass through this place. Putting that cynicism to one side, it is pleasing to see that the Small Business Advisory Council is involved in the expansion of the business licence information service to cover local government and codes of practices in addition to State licences. It is involved in a feasibility study on the simplification and standardisation of South Australian regulatory reforms.

The Small Business Advisory Council is also involved in getting business licensing agents to establish and publicise cycle times for processing licence applications and also to report that performance in its annual reports. It has also been involved in developing forums, which looked at developing practical business networks, finance packages for small and emerging enterprises, treatment of innovation and technology, the role of women in small and medium business enterprises and human resource development.

One very important issue—and I touched on this earlier—is that of infrastructure. I refer to the upgrading of the Adelaide International Airport. It is to be hoped that following the election of the new Federal Government the Minister can speed up the sale or lease of the airport so that we can attract private or other sources of investment into upgrading the airport to enhance our export opportunities. I recall driving past the Adelaide Airport some years ago and seeing an extraordinary Russian plane, which is the biggest plane built by man. I was absolutely amazed at the amount of cargo that that plane could carry. It would be very exciting if we could upgrade the airport so that a plane such as that could land and take off every day taking fresh fruit, seafood and other produce from South Australia to markets overseas.

Work on the Southern Expressway at a cost of $112 million is also a significant investment as is the upgrade of the Mount Barker Road. One would not be surprised to learn that the Mount Barker Road carries an enormous amount of traffic and goods destined for export through various ports in the Eastern States. The sealing of roads on Kangaroo Island has commenced, and one cannot underestimate the tourism value of that project. Of course, the basic infrastructure involved in erecting a bridge over the Murray at Berri should have been provided by government to the

people of that community many years ago. It is also pleasing to see that the Government is strongly supportive of the Darwin to Alice Springs railway line. The Leader of the Opposition has quite properly come out strongly in support of that project. We hope that we have men of vision in leadership—and I put Ben Chifley in that category—who can see the value of that sort of public sector infrastructure in this State. I refer, in particular, to the Snowy Mountains scheme which has had an extraordinary effect on the lives of ordinary Australians from Adelaide to Brisbane.

Regional development is also important. I understand that 92 firms have benefited from regional development initiatives. Individually tailored support services, grants, loans and guarantees range in value from $5 000 to $2.5 million. Incentive packages have been delivered to a wide variety of businesses. They include: a factory expansion and equipment upgrade for an engineering firm; a new factory and equipment upgrade for an expanding timber processor; a new product specifications accreditation for a light plane maker; a product reorientation for a food processor; the expansion of an abattoir and meat processing works; and product diversification trials for an agricultural equipment maker. That is a far cry from projects such as scrimber and the like in which the previous Government got itself involved.

I think it is important to highlight some of the important industries in South Australia. I refer, first, to the automotive industry. South Australia can be exceedingly proud of its automotive industry. I, for one, as someone from a rural background, had some degree of cynicism about the automotive industry, which was highly protected by tariffs. However, over the past 10 years it has made extraordinary strides to become competitive in terms of cost and the quality of the product it makes. Exports of completely made motor vehicles rose from $64 million in 1990-91 to $279.3 million in 1994-95, representing a 336 per cent increase compared with a national increase of 17 per cent. That is an extraordinary result, one which compares favourably with all the boom industries, and in that regard the industry must be congratulated. Exports of motor vehicle components rose from $107.9 million to $137.8 million, representing a growth of 28 per cent in the same period. Major export markets included the New Zealand market, which is worth $172 million or 41 per cent of the total; Asia, $137 million or 33 per cent; and North America, $88.4 million or 21 per cent. The efforts of the Australian motor vehicle manufacturing industry in having 33 per cent of its exports go to the most competitive regional economy in the world (Asia) is an extraordinary effort and should be acknowledged.

Principal investments include the ROH Alloy Wheel Company, which renewed a contract to supply alloy wheels to the Japanese automotive manufacturer, Honda. It has export contracts worth up to $50 million per annum and will establish Australia's only steel truck wheel plant employing 40 people and servicing import replacement and export markets. Castalloy was chosen by the US motorcycle manufacturer, Harley Davidson, as one of only five companies to be developed as a model supplier. It sends approximately 70 000 wheels per annum to Harley Davidson and it recently opened a new $2 million alloy wheel chrome plant to help meet the increase in demand. Lear Seating has invested $10 million to establish a new seating manufacturing plant; and Exacto Plastics has invested $11 million to upgrade its blow-moulded fuel tank manufacturing capabilities to supply future Holden Commodores. We heard histrionics from members when the Government reduced the public sector to a more manageable level. It is important for everyone to put that into the context of the extraordinary growth that we have seen in employment opportunities, particularly in the motor vehicle industry, as I have just mentioned.

I now turn to the industry of food and beverages. Manufactured food and beverage exports from South Australia totalled $870 million in 1994-95, an increase of 45 per cent over the 1990-91 figure of $599 million. That figure represents approximately 22 per cent of all South Australian exports. In 1994-95, principal food and beverage commodity exports included: meat products, $356 million; wine and brandy, $249 million; and seafood, $111 million. Principal export markets included the European Union, $227 million or 27 per cent of all food and beverage exports; Japan, $210 million or 25 per cent of our exports; Asia (excluding Japan) $146 million or 17 per cent; and North America, $133 million or 16 per cent.

At 30 June 1994, the manufactured food and beverage sector comprised 418 companies employing 16 200 people with a turnover of $3.3 billion, and $430 million was paid in salaries and wages. That represented 20 per cent of all South Australian manufacturing industries—a significant industry indeed. In that regard, the State Government played a role in lobbying the Federal Government not to increase taxes on wine, and I am sure that the State Government will remain ever vigilant in that regard. Wine exports account for $250 million, of which 52 per cent goes to the United Kingdom, 17 per cent to the USA and Canada and 9 per cent to New Zealand.

The prospects for the future in aquaculture, particularly when compared with the wine industry, are exciting. Present production is estimated at $93 million, and that is anticipated to increase to $280 million in five years, which will make it bigger then than the wine industry is now. It is important to note that we produced $365 million worth of wheat, which was 13 per cent of national wheat production; 33 per cent of the national production of barley; and 37 per cent of the national production of oranges. Given the difficulties confronting the meat industry, particularly beef and meat prices, $365 million worth of wheat, which has had a very good season, is still only marginally ahead of the moneys raised through meat products, so it is an industry which is well worth supporting and monitoring.

Other exciting industries include tourism, into which I will not go in detail as others have covered it. However, it is important to note some of the significant investments made by companies such as British Aerospace, Southcorp, Gerard Industries, Solar Optical, Vision Systems, Caroma, Safcol, which relocated the Victorian operations, and R.M. Williams, to name but a few.

The next two years will provide exciting times for us. We shall see a major expansion of jobs in information technology, water services, tourism, wine production and aquaculture. The Education Department's technology plan and the new 10-year language development plan will be established in our schools. I hope that those students who become involved in languages will not be disadvantaged under the assessment scheme, which I have raised previously with the Minister.

The Mount Lofty Summit project will be completed; a new athletic stadium will be built; there will be a new grandstand at Hindmarsh Stadium; and the clean-up of the Patawalonga, the Torrens and the River Murray will be well under way. I note that the Australian Democrats and the

Labor Party are doing their best to sabotage the clean-up of the River Murray with their blocking of the Telstra legislation in the Senate, and I will turn to that later. South Australia will not see any immediate benefits from such long-term infrastructure investment. It is important for all to understand that these benefits will not accrue instantly.

When reading some of the contributions made by members opposite, I was drawn to that made by the Hon. Carolyn Pickles who on 4 July, referring to the difficulties confronting the Federal Government, described the projected budget deficit as 'John Howard's fraudulent $8 billion black hole.' The Australian Labor Party federally has been putting that out quite a lot since the election. However, it is interesting to note that since the Hon. Carolyn Pickles made that speech the Federal Treasurer has said that the black hole is in fact not $8 billion but closer to $10 billion. One would expect a Federal Treasurer, no matter how we view him, as being grossly irresponsible if he said that without any justification. Indeed, Bernie Fraser, the head of the Reserve Bank, has never been backward in correcting Treasurers if they are wrong. So, for the Australian Labor Party to say that this $8 billion black hole is illusory or made up is, quite frankly, a disgrace.

People must understand that unless we get that Federal deficit down, interest rates will either increase or remain the same and will place Australia, indeed South Australia, in an uncompetitive position, particularly as Australia is a trading nation. The ball is very much in the court of the Federal Government. There is no doubt, whether it be State Labor Governments or State Liberal Governments—more likely the latter—there has been significant microeconomic reform which has not been matched by the Federal Government. One only has to consider the waterfront reforms in that regard. Laurie Brereton claims that there has been an improvement in productivity on waterfronts in Australia, but when compared with the improvements made by our overseas competitors, we can see that we are improving at only half their rate. In other words, we are getting further behind. It is disappointing to see a member of the former Labor Government obfuscating to the extent that people are misinformed about the former Commonwealth Government's budget strategy.

It was interesting to see the submission put to the National Commission of Audit by the States and Territories. It was a unanimous submission by all States and Territories, including the Carr Labor Government. They identified seven areas where the Commonwealth could engage in microeconomic reform and clear up some of the financial difficulties confronting the Federal Government.

The first was the funding imbalance. We have an extraordinary system in Australia—it is the worst in the world in degree—whereby most of the taxing is done by the Commonwealth, of which a significant proportion goes to the States, because the States have a very small tax base. In my view, that area needs to be addressed. In terms of funding, we have what was described in the report as diminished accountability. I recall an example of that prior to the last election when members of the Legislative Council and candidates visited a college at Port Adelaide which was jointly funded by the Commonwealth and the State. The Hon. Legh Davis went through the financial pages of its annual report and discovered that it was costing more to teach students things like basket weaving than to train a teacher, a doctor or an engineer.

The State Governments also addressed the cost of tied grants and bureaucratic duplication. As I have said before, the Commonwealth Government spends an extraordinary amount on education. When we consider that outside the ACT it does not have to run one school, we can see some of the difficulties. In simple terms, the Commonwealth spends $85 billion per year, and its primary responsibilities are defence and social security. On the other hand, the States spend $60 billion per year, out of which they are expected to fund education, health, provide a legal and courts system, police and extensive infrastructure. When we consider the direct benefit given by States as opposed to the Commonwealth and the amount of resources available to the Commonwealth as against the States, we can see that some hard decisions need to be taken by the Commonwealth regarding its expenditure. Frankly it is wrong and irresponsible of the Commonwealth to say that the States should make further reforms. We are all awaiting the Commonwealth's embarking on its microeconomic reform.

In closing, I am at a loss to understand the attitude of the ALP and the Australian Democrats in response to the last Federal election. Clearly, the Australian Labor Party as a Government was overwhelmingly rejected in the recent Federal election. One cannot expect too much from the Democrats, but the reaction by the Australian Labor Party has been to completely ignore the people's decision, to thumb their noses at the people's verdict and say, 'We will go on the way we have.' The Keating Government, its Ministers and ALP members were all held accountable at the last Federal election.

The Howard Government is endeavouring to hold various Government agencies accountable—ATSIC in particular springs to mind. However, at every step of the way the Federal Government has been hindered and prevented in its task of holding those institutions accountable and in ensuring that Australians get the best value possible from their tax dollar. It is a difficult issue, but if State Governments can confront major microeconomic reform, as they have over the past three or four years, I have no doubt, given that it has some $85 billion in outlays, that the Federal Government should not find the task any more difficult than that confronted by the State Governments. I support the Bill.

The Hon. T. CROTHERS secured the adjournment of the debate.

CRIMINAL INJURIES COMPENSATION (LEVY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 July. Page 1704.)

The Hon. A.J. REDFORD: I support the Bill and agree with the increase in the levy. However, I will make a few comments on it. I note in the second reading speech made by the Attorney that compensation payments to third parties—and I would assume that that includes their legal costs—amount to $13.2 million. I also note that contributions made, either by way of the levy, percentage of fines or the general revenue, comes to $13.6 million, which is about $400 000 more than payments out to third parties. One would assume that the cost of administering the scheme is $400 000. I am not sure whether I am correct (and if I am not I invite the Attorney-General to correct me).

It is important to understand that when the criminal injuries compensation scheme was first initiated many years

ago it was never intended that there would be a contribution from general revenue towards the cost of it. Unfortunately, with people becoming more aware of their general rights, the number of claims against the fund have increased at a faster rate than either inflation or the detection, apprehension and conviction of criminals and there has been a shortfall. We need to be careful that we monitor this payment from general revenue to ensure that there is not a blow out. I know from conversations I have had with the Attorney-General that he is very watchful that that does not occur. I have not heard the Attorney's response on behalf of the Government to the proposed amendments suggested by the Hon. Caroline Pickles in her contribution, but in the absence of being advised of his view I will make a number of comments.

First, I refer to the Leader's amendment suggesting that we have CPI indexing for all types of compensation provided for by the Act. At first blush that seems a not unreasonable request. However, it seems to be rather strange that, if one is to adopt a responsible fiscal attitude to the administration of the scheme that the Leader, who I understand aspires to be in Government one day—and we all have dreams beyond our expectations, at times—would have thought that if we are going to have CPI indexing for the payments out, we would also have CPI indexing in relation to income. The Leader appears not to have addressed the issue of indexing the levy. Given that a statutory proportion of funding for this scheme comes from fines, one could also ask why the Hon. Carolyn Pickles has not addressed indexation in terms of the quantum of fines to be imposed.

Indeed, one would think that, if we are going to index the outgoings in a scheme such as this, then we would want to index the income. I am sure the Hon. Carolyn Pickles will answer my comments in Committee, although I am not pre-empting the Government's position on the amendment. Her second suggestion relates to the minimum or qualifying amount of compensation. Again, at first brush that seems an eminently sensible amendment. The only concern I have in that regard is that we are talking about amounts of compensation of less than $1 000. I would ask the Attorney-General, if such an amendment is successful or is accepted by the Government, what will be the likely cost in administering such claims?

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and it may be a recommendation from a parliamentary committee. I am just raising questions about some of the recommendations made.

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: He may well do so, but I am directing questions to the Minister as is the normal practice and he can make comments about that in his reply after I have finished. In my experience the bulk of crime dealt with in the Magistrates Court involves low level assaults which fall within the under $1 000 category. What estimates would the Attorney place on the cost to the scheme overall of the amendment? What increase would there be in terms of administration costs? It is easy to get a push that might constitute a minor offence and turn it into a claim for all expenses which ultimately are being paid for under the Medicare bulk billing scheme that the new Federal Government has promised to continue. At the end of the day, if we do adopt that, what will be the effect of transferring a cost centre which currently lies at the feet of the Commonwealth Government to the State Government? What will it cost to ensure that there is no fraud in relation to claims made?

The third issue that the Hon. Carolyn Pickles raises concerns changes to the burden of proof. As it stands now, for there to be payment under this Act there has to be a conviction—with a few exceptions—and that necessarily means that the offence has to be proven beyond a reasonable doubt. My concern in reducing it to the balance of probabilities is two-fold. The balance of probability is the standard adopted in other States and I have some sympathy with that view. Is it possible to estimate, even by reference to other States, what the increase in the amount of payments made is likely to be as a consequence of that reduction? I imagine that there may be a significant increase in legal and administration costs and I can foresee that happening in these circumstances.

At the moment, from a practical point of view, what happens with these claims is that the lawyer acting for the claimant sits and waits for the prosecution process to go through and be completed. Generally speaking, at the end of the process, if there is a conviction, all that occurs from thereon is an assessment of the amount of damages to be paid to the claimant. If there is not a conviction, advice—and in many cases difficult advice—is given to the claimant that they cannot proceed with their compensation claim. It seems to me that, if it is dropped to the balance of probability, there is a real risk that we may have either re-runs of trials simply because of the differing burden of proof or there may be an additional subset of claims by people where claims perhaps are not made because of prosecutorial discretion. What would be the cost of that? Might that lead to an increase in fraudulent claims against the fund and what costs would be associated with that? Are there any figures from interstate in that regard?

The fourth suggested amendment is to require the Attorney-General to report annually to Parliament. I have a great deal of sympathy with that amendment and I would support it in the absence of any compelling argument to the contrary. The only query I have is what the cost of that would be, although I doubt whether it would be great, as I assume the Attorney-General would be in receipt of that information in any event and it would be simply a matter of tabling the information he receives before the Parliament.

In closing, as I have said before, I often wonder about the Act and how it is structured. The previous Attorney-General and the previous Labor Government adopted the assessment of compensation principles similar to those which apply at common law. Basically, prior to the amendments introduced by the previous Attorney-General (Hon. C.J. Sumner), damages were assessed purely and simply on loss and the focus of that loss in general terms fell into two categories, economic loss and loss for pain and suffering.

Following the Hon. Chris Sumner's amendments, in order to reduce the economic component of loss and to reduce the amount of moneys paid out, he suggested a scale of 1 to 50 be adopted in terms of assessing non-economic loss. Without being too glib about it, it is clear that the entire thrust of that amendment was to reduce the amount of money paid in that form to claimants because of pressures on the fund. I can understand his doing that. What concerns me is that generally the victims of the most serious crimes are usually the most economically poor in our society, and I will give a simple example.

Rape victims constitute a significant proportion of claimants as to the amount paid out from the fund. Generally, rape victims as women do not suffer a great economic loss because of general economic disadvantages that they have in

the community in any event. In some respects, when women make a claim for rape and if they are rearing a family and have an occupation such as 'home duties', they are not likely to get very much at all. The victims do not suffer any economic loss, and the area of loss or compensation which the previous Attorney's amendments were designed to attack, that is, non-economic loss, has been reduced.

The Hon. Sandra Kanck interjecting:

The Hon. A.J. REDFORD: The honourable member raises an important point when she says that no provision has been made for counselling. Some of the compensation paid to women, particularly rape victims, is not economic loss: they have not lost a job or any time from work, but they have suffered enormously. I would invite the Attorney to consider looking afresh at how we assess compensation, and I am mindful of the fact that we need to control the potential cost of this scheme.

The Hon. Sandra Kanck interjecting:

The Hon. A.J. REDFORD: The Hon. Sandra Kanck interjects and mentions counselling for rape victims and, although in some respects that could not strictly be described as an economic loss, I believe she has a very valid point. I also believe there is a very valid point in saying that occasionally victims need to receive an amount of money that signifies a community recognition of the extraordinary harm that they have suffered as a consequence of the crime that has been perpetrated on them, and this applies particularly to rape victims. I would say the same in relation to women who have been the victims of domestic assaults and in relation to young children who have been the victims of crime and who, in some respects, are the—

The Hon. R.R. Roberts interjecting:

The Hon. A.J. REDFORD: The honourable member interjects, but if he comes into the Chamber 10 minutes after I have finished the topic I will not respond. I am concerned that, in reality, there is almost a gender imbalance in this system. These amendments are not designed to deal with that, and I do not think it is appropriate to deal with those issues at this time under the auspices of this Bill.

I have said this on previous occasions and I will say it again: we need to look quite seriously at how we apply compensation payments in this area because, quite frankly, it is the poor and the weak who are generally the victims of crime, and the compensation system is skewed against the poor and the weak. It is an issue that needs very careful consideration. I commend the Bill to the Council.

The Hon. R.D. LAWSON secured the adjournment of the debate.

ELECTRICITY CORPORATIONS (GENERATION CORPORATION) AMENDMENT BILL

In Committee.

(Continued from page 1751.)

Clause 1—'Short title.'

The Hon. SANDRA KANCK: I remind members that this Bill is titled as it is because we are creating a new entity, and that is occurring because our State Government wants South Australia to be part of the national electricity market. I expressed my concerns when I talked about this Bill some weeks ago and, in the interim, an interesting article appeared in the *Advertiser* on 4 July to which I draw the attention of members and which talks about a massive power failure that hit the western United States: 15 States were the subject of a massive power failure because of the size of the grid. At that stage officials did not know the cause of the failure but said that a circuit breaker on a key power grid had shut down.

It was a day when temperatures had risen to 38 degrees and airconditioners were not able to operate. The article talks about 200 traffic lights in Los Angeles being rendered inoperable, creating a commuter nightmare. I bring this article to the attention of members because I want to reinforce my concerns about South Australia's being part of a national electricity grid. If this situation could happen in the United States, it could also happen to us.

Clause passed.

Clause 2—'Commencement.'

The Hon. R.R. ROBERTS: I move:

Page 1, line 14—After 'This Act' insert '(other than section 19)'.
Page 1, after line 14—'Insert subclause as follows:

(2) Section 19 comes into operation on the day on which this Act is assented to by the Governor.

I have moved this amendment because there is a problem in relation to when the Bill can operate. Mr President, with your leave I will deal with another amendment that I intend to move as there has been a great deal of consultation between the Minister in another place and my colleague Kevin Foley in another place. I point out that the amendments lodged on 9 July at 4.32 p.m. deal also with page 1, after line 14. Headed 'Amendment to the long title', that amendment is self-explanatory. Subclause (3) talks about the objects of the Bill, which are to establish corporations for generation, transmission and distribution of electricity for the benefit of the people and the economy of the State, and to provide that the assets of electricity corporations remain in public ownership.

The amendments arise from concerns expressed by the Opposition in respect of the matters contained in the document from which I read today and which talked about setting up companies and selling shares. We were concerned with the issue of privatisation. A great deal of consultation took place between the shadow Minister in another place and the Minister, and those amendments were agreed to.

Subsequent to those discussions were the revelations of the document from which I read today. Further concerns were expressed when the Statutes Amendment (Attorney-General's Portfolio) Bill was put through this Chamber, and it obviously confirmed easements *in gross*.

Given that that situation developed, further discussions took place, and this amendment was lodged on 11 July at 9.32 a.m. I point out that in respect of clause 19, which comes into operation on the day on which this Act is assented to by the Governor, there is a period between the date of proclamation to assent when some of these things can occur.

Members would recall that the first part of these amendments was lodged some time ago. The rest of the amendment—subclauses (b) and (c)—was then added to avoid a situation such as the one described in section 344 of the document I quoted today where, given the nature and structure of the transmission assets, the sale of 50 per cent of those assets can be accomplished by certain techniques. Those measures have been added to avoid such a situation. I should point out that either these matters or the principles involved therein have been agreed to. The Minister has said that he has no intention of going down the track of implementing the proposals outlined in the document from which I read today. Given that that is the case, there should be no opposition to the amendments as proposed.

In conclusion, I point out that this would not prohibit a

joint venture involving a company such as Penrice or any other joint venture operation in the event that extra facilities were required for the expansion of companies at Roxby Downs. These amendments have been agreed to by the Minister and the shadow Minister, and the other 11 July amendments include our covering the disposal of shares or the transfer of shares in an electricity corporation or an electricity generation system. I recommend that these amendments be agreed to.

The Hon. R.I. LUCAS: I have had some discussions with the Hon. Mr Roberts. From the Government's viewpoint, I suggest that we address all the amendments as a package, as I indicated in the conclusion to the second reading debate. I have had a further discussion with the Minister for Infrastructure (Hon. John Olsen) subsequent to the second reading to take further instruction about this matter. The Government intends strongly to oppose the principal elements of the amendments being moved by the Hon. Mr Roberts. Therefore, it is my instruction to oppose all amendments as part of this package. I intend to use this as a test case and to speak to the whole package of amendments now. I indicate the Government's position and its future intention to test the views of the Committee by way of division, if we were to lose this amendment on the voices. If we were to lose the amendment on a vote, we would not seek to divide on the remaining amendments. I place on the record that that is not because the Government is not strongly opposed to all the other amendments in the package but because it will use this as a device to test the views of the majority of members of the Committee.

If there was to be some agreement with the Government's position about the substantive elements of this package from other members in this Chamber, I suspect there might be, at a later stage, some prospect for discussing some of what I might describe as the peripheral aspects of the package of amendments. At this stage, my instructions are to oppose strongly not only the principal elements of the Hon. Mr Robert's package but also all the peripheral elements.

I indicated in the second reading debate that I would have further discussions with the Minister. He has indicated to me that, should these amendments be successful and pass this Chamber, the Government will not only not accept them but will also not proceed with the legislation. Whether the Minister wants to pursue that matter through another conference stage to see whether the opposing forces—the Australian Democrats and the Labor Party—have second thoughts at the conference or when the matter is discussed in the House of Assembly is an issue for members of the Labor Party and, indirectly, the members of the Australian Democrats.

I want to place on the record the Minister's position and, therefore, that of the Government: they are not prepared to accept this package of amendments and, should it remain a part of the final package, the legislation will not be proceeded with. I say that advisedly and, whilst I am not an expert in this area, I understand that some observers would see that in this legislation, with or without these amendments, a number of provisions might have given some comfort to those who had some concerns about the future directions of public ownership, if that were the concern of some elements of the community in relation to this Bill. Again, that is a judgment that will need to be taken by members of the Labor Party and of the Australian Democrats.

With the Minister's permission, I intend to put on the public record the reasons why the Government opposes this package. In doing so, I will quote extensively from a letter to the shadow Minister for Infrastructure (Mr Kevin Foley) from the Minister. Dated 14 June this year, the letter indicates why the Minister and the Government strongly oppose this package of amendments. It states:

A key reason why the amendment cannot and will not be supported is that it will significantly and unfairly reduce the capacity of South Australia's electricity industry to be competitive in the national market and operate in a responsible commercial manner.

Your amendment will, intentionally or otherwise, impose unacceptable limitations on the range of ordinary and usual commercial practices which businesses of this nature (regardless of public or private ownership) must be able to consider when determining the best manner in which to operate a competitive business. The amendment will not lead to any greater degree of protection than now exists in ensuring that both ETSA Corporation and the generation corporation are kept in public ownership.

During the last sitting week, the ALP supported the national code legislation, yet this amendment seeks to place ETSA into the national market at a significantly reduced commercial disadvantage by restricting the normal commercial operations necessary of ETSA. The amendment will effectively ameliorate the competitive neutrality which is central to effective national competition.

South Australia's electricity corporations will need to be innovative and highly commercial in the conduct of their business to succeed in the national electricity market. This is already being demonstrated by several large customers in South Australia who have called for tenders for the supply of electricity. These have included Western Mining, who have called tenders for the possible supply of power to their Stage 3 expansion at Roxby Downs. In this and several other such cases, ETSA has competitively bid and has done so in collaboration with other parties in joint venture arrangements. Such a joint venture would bring to the project its expertise and specific skills, as well as capital, and would share in the risks and rewards of the project. These arrangements are emerging as a focal part of operations as this country progresses towards the twenty-first century.

There is a wide range of examples of the commercial options that must be available to the electricity corporations which would be otherwise precluded by your proposed amendments. A few examples would include:

· to make the ageing Torrens Island A Station competitive in the national market, major investment will eventually be needed to bring it up to speed with the latest technology, to a combined cycle gas turbine operation. A joint venture where the South Australian Generation Corporation provides the existing assets, some expertise and funds, whilst another party (chosen on the basis of its particular capabilities) provides its expertise, funding and perhaps assistance in managing the construction risks, makes it potentially a very attractive option.

· the Government is currently negotiating strongly with Australian National to lessen the cost of rail freight for Leigh Creek coal. As you are only too aware, this is an imperative for positioning the Northern Power Station competitively in the national market and for the long-term security of jobs and a protected future at Leigh Creek and Port Augusta and hence has my full support.

If satisfactory arrangements cannot be negotiated with Australian National, then the takeover of operations on the Leigh Creek railway line in a joint venture arrangement will be pushed as an alternative option to get costs down.

As you would also be aware, ETSA has already entered into financing deals under the previous Labor Government, which would now be considered illegal under your amendment. However, the interstate competitors will use any such arrangements as they see fit to lower their costs in the market. The New South Wales Labor Government has budgeted to undertake several cross-border leases this coming financial year, which also would not be permitted. A number of the private buyers in Victoria have also used such structured financing arrangements to raise funds at lower cost. Should these options not be available to the South Australian Government and its trading enterprises?

The next paragraph, I am advised, refers to aspects of the Hon. Mr Foley's amendments in another place which evidently have not been picked up in the Hon. Mr Roberts's amendments in this Chamber. Therefore, I do not propose to read that paragraph. The letter continues:

I again implore you to consider these issues and strongly urge you not to put at risk ETSA's role in the national market and the significant benefits this will bring to South Australia. The Government cannot accept either of these outcomes.

That is a comprehensive summary of the position of the Minister and the Government. I am advised that the Hon. Mr Roberts is suggesting that what was felt by the Labor Government to be appropriate, proper and reasonable for the operations of ETSA will now be banned, outlawed, prohibited or prevented by him and the Australian Labor Party by way of this amendment. It was all right for the Labor Party and ETSA to undertake some of these deals and in some way reduce the costs of the ETSA Corporation, but the Labor Party, now in Opposition, seeks to prevent those options from being considered. The letter indicates that other Governments including the New South Wales Labor Government are looking at a range of options which potentially might reduce the costs of their operators. Those sorts of options would also be prevented from being considered.

Contrary to the indications given by the honourable member in his explanation, as the Minister indicates in his letter there is a range of joint ventures which would be prohibited by the honourable member's amendments. The Minister believes strongly that a range of amendments and options will have to be available to South Australian operators to ensure that they are competitive as part of the national market and in terms of seeking future customers. The Minister and the Government strongly oppose this package of amendments. I place on the record in respect of this test clause the Government's strong opposition to the whole package of amendments.

The Hon. SANDRA KANCK: I, too, will speak to these amendments as a package. I was interested to hear what the Minister said—I guess the brinkmanship that we are now involved in. I do not believe that the Government would withdraw the Bill.

The Hon. R.I. Lucas: Just watch this space.

The Hon. SANDRA KANCK: Well, I am looking at a couple of newspaper clippings that I have in my file on this Bill. I have one from the *Advertiser* of 29 November in which Mr Olsen expresses great concern if we do not alter the structure of ETSA. The article written by Greg Kelton states:

South Australia could miss out on cheaper electricity and $100 million in Federal funds unless major changes were made to the structure of the Electricity Trust of South Australia, Parliament was told yesterday.

The article goes on to quote Mr Olsen. I do not know whether Mr Olsen's views about whether or not we will lose $100 million still carry over. It would be strange if that figure has altered. I gather that the fact that we might get all this extra money has propelled us down this path. I refer to an article in the Business section of the *Advertiser* of 4 May. The article states:

Mr Olsen said there was a 'need to hasten slowly' to ensure the ETSA decisions were in the State's best interests. There were no simple answers.

I think there is room for discussion on all these matters. At this stage, I indicate that I will support the Opposition's amendments. The information that the Hon. Ron Roberts read into *Hansard* in his second reading speech is of concern to me. I am also concerned that the Opposition took so long to act on it. I have another news clipping from May in which the Opposition reveals that it has these leaked pages from this document. We then find that just after the Attorney-General's portfolio Bill went through the Opposition seemed to realise that what was in that document might apply to the Generation Corporation. I wondered what agenda the Opposition was running at that time: whether it suited its agenda to go to the election on the privatisation issue or whether it was just incompetence. Whatever it was, it appeared that we may have had a Trojan horse at that stage, and the Opposition let it go through. I was certainly not aware of it at that time. I did not see the documents until well after that particular Bill was passed.

I am now placed in a position, in the light of the information that I have at this stage, of working out what to do. I accept what the Minister has said, that the amendment could preclude South Australia from taking action in a number of other areas. I find it strange in the extreme that the Minister has not approached me to discuss a compromise. It seems to me that we are playing a brinkmanship game and that there is an all or nothing approach. I do not see why there has to be an all or nothing approach. I will support the amendments recognising that the amendment to clause 19 probably goes a lot further than might be necessary. I am willing to go to a deadlock conference on that so that we can sort out our differences and see whether we can come up with a compromise. However, if the Minister for Infrastructure decides to withdraw the Bill, that must be on his head because it is his responsibility.

The Hon. R.I. LUCAS: The honourable member has quoted the Minister's statement in November last year about hastening slowly. I would have thought that any reasonable person would not say in the light of the fact that we are now in July 1996 that we are ramming this package of legislation through. I would have thought that from November last year to July this year is more than an adequate length of time for genuine and reasonable discussion regarding this whole package. I would have thought that from the viewpoint of the Australian Democrats and the position that it seeks to represent, the Minister and his officers have bent over backwards in their consultation. Proposed new section 47A(1) provides:

A transaction for the disposal of assets to which this section applies cannot be made except on the authority of a resolution passed by both Houses of Parliament.

I might have almost described that as a Democrat amendment specifically designed to make the Deputy Leader of the Australian Democrats happy by giving her some sort of a say in relation to issues of concern to her and her constituency. I say unequivocally on the advice of the Minister that there may not be an opportunity for a conference to retrieve the position in relation to this matter. I have indicated on the basis of my discussions with the Minister that he feels very strongly about this issue. There has been ongoing discussion for a long time. He has bent over backwards to try to meet the requirements of the Australian Democrats, the Labor Party and others within the parameters of what the Minister and the Government seek to do.

Unless the Deputy Leader of the Australian Democrats can indicate today that she is prepared to alter her attitude to the general principles, I suspect it is probably a waste of time. The Minister will not want to talk about the peripheral issues of the amendment. The Minister, as honourable members heard from the letter to the shadow Minister for Infrastructure which I quoted at length, is concerned about the substantive issues of this amendment. The Government is not interested in playing around the edges of this amendment. Without having spoken directly to the Minister on this aspect, I suspect that he is not interested in going to a conference if all

we are talking about is dotting the i's and crossing the t's and the Australian Democrats still continue to support the Labor Party in something which in effect will gut the Government's intentions and leave South Australian corporations in a disadvantaged position compared with their interstate competitors.

If the Deputy Leader of the Australian Democrats is prepared to consider a significant change to the substantive parts of the amendments, perhaps we can talk further. However, if she is talking only about dotting the i's and crossing the t's and prolonging the agony for another few days, my suspicion, knowing the Minister relatively well, is that we are wasting the time not only of the honourable member but of Parliament as well.

As I indicated, the last advice that I had from the Minister is clear. Whether the Deputy Leader of the Australian Democrats wants to believe the position of the Minister and Government or not is a decision for her, but my advice is explicit and clear: if the Democrats and the Labor Party insist on this package of amendments, the Minister and the Government will drop the Bill, and the provisions which have been put in section 47 in an attempt to meet some of the desires and requirements of the Deputy Leader's constituency will not be part of the statute law of South Australia because the Bill will not be proceeded with.

I do not intend to repeat the reasons why the Government has indicated its opposition to this amendment. However, I wanted to take up the issue raised by the Deputy Leader of the Australian Democrats.

The Hon. R.R. ROBERTS: Arising from those two contributions some comments need to be made. The Minister indicated that the Minister in another place has had a gutful of the Bill. He says that he has bent over backwards to make accommodations. When the Bill was first laid on the table in another place, it was not in the form that it now is. There was a great deal of consultation and agreement between the Opposition and the Liberal Party. I do not know whether that cooperation and accommodation would have been accomplished if the information revealed in the leaked document had been made public. Being a person of a different tactical nature, I was not keen to release this document until after the Bill had been tabled. It would have been interesting to see the shape of the Bill had the Government not known that the Opposition was aware of the document.

The Hon. Sandra Kanck mentioned the portfolio Bill and the Opposition's tactics with regard to it. Easements in gross are not necessarily just for people who may work for ETSA from time to time. They are requirements of gas companies, water companies, and so on. Indeed, this is a sensible proposition. When it was brought to my attention that this portfolio Bill had gone through, I had consultations with the Attorney-General, and he explained basically what he has put on the *Hansard* record today. In 99.99 per cent of cases, if the Attorney-General assures me, as a gentleman and politician and Minister, that something is so, I accept it without reservation. Whilst the portfolio Bill had to go through, and I was aware that it was going through, I was convinced that it was necessary for the smooth operation of the utilities to provide services for the people of South Australia.

The Leader of the Government said that things that took place under the Labor Government would be illegal under this proposal. So what? The Opposition, in Government, was not asking for opinions on how best the proposal was to be evaluated. In essence, the proposal was that the ETSA Corporation would offer a proportion of the value of ETSA transmission to the private market. We have never supported privatisation, and that is why we have moved these amendments.

Let us look at the history of the amendments which I lodged on 9 July at 4.33 p.m. There was a great deal of consultation. Those amendments were agreed to by the Minister and shadow Minister in another place, and there was some question as to whether the amendments would be moved by the Government or the Opposition.

The Hon. R.I. Lucas: Tell the truth. It was on the understanding that you dropped the other amendments.

The Hon. R.R. ROBERTS: I do not know the fine detail of what took place between the Minister and shadow Minister, but those amendments were agreed to. What do the other amendments do? Looking at clause 19, page 4, lines 12 to 18, the first two clauses of that amendment are in the Bill. There is nothing new about it. We are trying to avoid a situation where we set up dummy companies or companies designed not to do what their face value tells them to do. When challenged, the Government says, 'We are not trying to do that anyhow.' All right, if we are not trying to do that, what is the problem? In our amendment we say that we are not going to do it.

As regards the amendments lodged at 4.33 p.m. on 9 July, the Government and the Opposition agreed that it was a sensible proposition and that these assets and shares ought to remain in Government hands. We should also bear in mind that the relodged amendments, with the addition of (b) and (c), do not prohibit projects similar to those of Penrice and will not stop the revamping of other generating facilities, where necessary. They refer only to facilities presently in the hands of the Government, which the Opposition and, thankfully, the Australian Democrats value on behalf of the people of South Australia.

The Hon. SANDRA KANCK: One of the difficulties I have is when I hear that agreements have been reached, following discussions to which I have not been a party, and such and such has happened. I cannot evaluate the truth of such claims and counterclaims, but I heard the Hon. Mr Lucas say that an agreement was reached with the Minister for Infrastructure that the amendments lodged on 9 July would be accepted on the basis that amendments to clause 19 would not go ahead. I have not been party to any of that discussion. I have not been informed about that and I know nothing about what agreements have been made or reneged on, but I am expected to make these decisions now on the basis of what I have just heard and to make an informed decision. I cannot do it in this context. If we are to make a decision on this tonight, I will accept what the Opposition has and I have no choice but to offer to the Government the option of a deadlock conference.

If the Minister for Infrastructure decides that he wants to withdraw the Bill, that is his own choice. However, the Government should be aware that if he does so the only people who are likely to be miffed are Government members themselves and perhaps some of the more conservative members of the Opposition. The general public will not care one iota and in fact many will cheer that the Bill has been withdrawn. Whether one likes it or not, that is the reality of how the public feels about what is happening to our country in terms of competition policy, the electricity grids, the possibility of privatisation and so on.

I reiterate what I said when I spoke before and refer to the quotation I came up with from the *Advertiser* of 4 May 1996,

in which Mr Olsen said that there was a need to hasten slowly. We got the report from the Industry Commission on 29 April—just two and a half months ago. I do not see that there is the urgent need that the Government sees in this. The implications of what we are doing are huge and I am always amenable to more discussion on this.

The Hon. R.I. LUCAS: I thank the Deputy Leader of the Australian Democrats for that because I want to explore with her one or two options. The position that I indicated by way of interjection is exactly the case. The Hon. Mr Roberts knows that to be the case. A package of amendments were placed on the record by the Australian Labor Party in another place. The Government's position was to strongly oppose it. A whole series of further discussions were held between the shadow Minister and the Minister for Infrastructure. The subsequent shorter series of amendments was devised. Who constructed those amendments I am not sure; it does not matter. There was either agreement between the two or certainly from the Government's viewpoint a view that we were not fussed if they were moved and that we would not go to the wall against them. The end result was the same and that series of amendments was to replace the first series of unacceptable amendments.

That was the Government's understanding in relation to this issue up until a little while ago. I can understand the position of the Deputy Leader because in this Chamber we are confronted with a position where not only does the Australian Labor Party now continue with the second series of amendments but also goes back to including and continuing with the first series of amendments which were unacceptable to the Government. The Government's position clearly is that the Australian Labor Party cannot have its cake and eat it as well. There was clearly a discussion and indication on the first series of amendments, for the reasons the Minister has given in his letter to Mr Foley (which I read to this Chamber), that a number of aspects of this package of amendments may have some implications and effects of which even the Deputy Leader of the Australian Democrats may not be aware.

Contrary to the indications by the Hon. Mr Roberts that this will not affect joint ventures, the clear legal, departmental and portfolio advice available to the Minister is that a range of options will now be precluded for ETSA—even some options that the previous Labor Government was happy to go along with in terms of trying to make the ETSA Corporation competitive in either the State or national market. That is the effect of the potential implications of the package of amendments before the Committee at the moment. That is why the Minister feels so strongly about it and why the Minister was prepared to be reasonable and to look at the second series of amendments on the express understanding that the first package would not be proceeded with. That was the position. The Minister is a reasonable person and was prepared to engage in reasonable discussion and we now find ourselves in a position where the second package of amendments is before the Chamber and now the first lot, with a few changes here and there, has been dusted off and plonked back in front of the Committee. Potentially the Australian Democrats and the Labor Party will support them this evening.

I can put only one question to the Deputy Leader of the Australian Democrats at this hour as I do not want to unnecessarily prolong the debate. Is the Deputy Leader of the Australian Democrats prepared to have some discussion with the Minister and his advisers in terms of potentially not proceeding with support for the first package of amendments at this stage in the Chamber or does she want to proceed and vote for them and only have a discussion at some later stage?

Members interjecting:

The Hon. R.I. LUCAS: It is not a cheek—it is asking a question. The prerogative rests completely with the Deputy Leader of the Australian Democrats. She can indicate on behalf of the Australian Democrats that she has not been privy to some of these discussions. She was not aware of some undertakings and understandings we had that the first package of amendments would not be proceeded with in favour of the second package of amendments, which was in fact the reality. The Hon. Mr Roberts will not be able to deny the detail of what I have just said because I know it to be fact as a result of the discussions I have had over time with the Minister for Infrastructure. I put the question to the Deputy Leader of the Australian Democrats. It is clearly her decision. If she would like to indicate her position I will take some quick advice and sort out what we might be able to do.

The Hon. SANDRA KANCK: I am willing to speak with both the Government and the Opposition on this. It appears that there may be information that I have not been given and if I am to come to an informed decision I need all that information. I am not willing to have a snow job done on me where I have one side woo me and then another side woo me and get one argument from one group and another argument from another group. I am willing to meet and talk with both the Government and the Opposition at the same time in order to find the truth of what has occurred outside of this Chamber. In that way I can make the informed decision.

The Hon. R.I. LUCAS: On that basis I will move that progress be reported. I do so on the basis that, clearly, the Government's position is as I have indicated. I have not had the opportunity to speak again with the Minister for Infrastructure in the light of the debate over the past 10 minutes. I will take further advice from him and certainly there can be that discussion. On behalf of the Government and the Minister I can give an undertaking that there will be such discussions between the Government or its representatives with the Deputy Leader of the Australian Democrats. We can have those discussions either tonight or tomorrow morning, whichever is convenient for all concerned, and it is the Government's intention to resolve this issue one way or another: either in the way that we have indicated on the public record or in some different way tomorrow afternoon so that we can progress this matter one way or another.

Progress reported; Committee to sit again.

CRIMINAL INJURIES COMPENSATION (LEVY) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1760.)

The Hon. R.D. LAWSON: I support the second reading of the amendment to the criminal injuries compensation legislation. The Bill as introduced by the Government was a simple measure to increase the criminal injuries compensation levy for the entirely sensible purpose of raising additional funds to enable the scheme to operate successfully. In his second reading explanation of the measure the Attorney-General mentioned that the amount collected from the criminal injuries compensation levy in 1994-95 was just a little over $3 million and that the predicted collections for 1995-96 are somewhat less, by about $200 000, at about $2.8 million. I would be interested to know in the fullness of

time the reason for the falling collections from the levy. The measure is certainly a sensible one and one which is entitled to the support of the Council and it has been supported by all who have spoken on the measure.

However, the Opposition has moved a number of amendments which it is claimed are based upon the recommendations of the report of the Legislative Review Committee tabled in February 1995. I suppose it is flattering to the committee to have the Opposition supposedly support its recommendations in its amendments. However, on closer examination it will be seen that the amendments proposed by the Labor Party are not in fact recommendations of the committee in all cases. Notwithstanding the fact that it is flattering for a report with which I was associated to have been adopted by the Opposition, the limitations of the report ought to be emphasised at the outset. The principal limitation of the report is that its recommendations were not costed. The budgetary implications of its recommendations were not examined or analysed.

There were reasons for that and the report itself made it clear that the data relating to the scheme as kept at that stage was insufficient to enable its recommendations to be costed in any effective way. In fact, measures were recommended to improve the statistical and financial data relating to the scheme so that future amendments could be costed. Four series of amendments are proposed by the Opposition. The first involves CPI indexing for all types of compensation provided for in the Act. The second is a reduction in the minimum award of compensation from $1 000 presently applying to $500, and that clearly was a recommendation of the report. Thirdly, it is suggested by the Opposition that proof of commission of the criminal act said to result in the injuries should be proven to the civil standard of proof, namely, the balance of probabilities rather than the more onerous proof beyond reasonable doubt. The Opposition's final amendment requires the Attorney-General to report annually to Parliament on the operations of the Victims of Crime Compensation Scheme. I do not think that that was a recommendation of the report.

I will deal with those sequentially. First, as to CPI indexing it was suggested that the committee had recommended indexing for all types of compensation, but that was not the case. The Legislative Review Committee in its report recommended only that the multiplier used in section 7(8)(ii) of the Act be subjected to CPI indexation. It was not suggested in the report that the maximum, for example, the sum of $50 000 be indexed, nor was it suggested that any of the other figures mentioned in section 7 be indexed. Notwithstanding that, in her second reading speech the Leader of the Opposition claimed that the report had recommended what is in effect a universal recommendation. As I mentioned, this was a recommendation not costed. I should also mention that the provisions in other State schemes do not allow for indexation. That appears on the table of material at page 47 of the report but, more importantly, it should be mentioned that indexation is something that had been considered by a previous Government and not accepted.

When the 1993 amendments to the Act were passed and the scale of zero to 50 for the purpose of determining compensation introduced, the then Attorney-General (Hon. Chris Sumner), stated:

> We do not have a provision for inflation in the Criminal Injuries Compensation Act because we usually bring a Bill back to lift the maximum amounts from time to time. My proposal is that we just proceed and, in a year or so, assess the effect it is having on awards to victims and, in particular, the fund. There may be a future possibility, if the fund can be kept in reasonable shape, of linking the maximum to the maximum under the Wrongs Act, which would then be automatically increased by inflation.

The then Attorney further stated:

> But I think a Government of whatever persuasion would have to consider that matter in the future, depending on the status of the fund.

The previous Government adopted what might be termed a 'cautious' approach, and did not recommend indexation or adjustments for inflation. In the absence of compelling evidence that indexation will not have an adverse effect upon other aspects of the State budget, and with no such evidence produced by the Opposition, one would have to doubt the wisdom of this proposal at this stage.

The second series of proposals relate to reducing the minimum from $1 000 to $500. In her contribution on this matter on 10 July, the Leader of the Opposition said:

> The Legislative Review Committee has found that this has led to injustice in a number of cases.

The matter to which the Leader was referring was the increasing of the minimum from $100 to $1 000. The Leader of the Opposition was telling the Council that the committee had found that this had led to injustice in a number of cases. Indeed, the contrary was the fact. At paragraph 4.3.1 of the report the committee, when referring to this matter, said:

> The minimum of $1 000 was, in the committee's view, too high . . .

It further stated:

> It has the potential to exclude too many claims worthy of recompense.

So, far from claiming, as the Leader of the Opposition does, that the committee had found that injustice had been caused in a number of cases, the committee was circumspect in the way in which it couched its conclusions. It noted simply that there was a potential to exclude too many claims worthy of recompense. Again, unless the Opposition can come up with costings on the effect of this change, the position adopted by the Government in relation to the report ought to be maintained.

I should mention that the Attorney-General gave a full and detailed response to each of the recommendations of the committee. In general terms, the responses were that funds were not available to meet the recommendations of the committee. It also ought be said in relation to this matter that the increase of the minimum (which was done under the previous Government) from $100 to $1 000 was the subject of comment by the New South Wales Auditor-General in his report of 1994—again a matter referred to by the Legislative Review Committee in its report.

The New South Wales Auditor-General at that time recommended that the threshold for claims in that State be increased. I have not been able to ascertain in the time available to me whether or not that recommendation was adopted in New South Wales or whether or not it is in contemplation.

The third matter raised in the Opposition amendments is the proposal that proof of commission of the offence should be on the civil rather than the criminal standard. Again, this matter was considered by the previous Government at the time of the amendments and had in fact been considered by the present Attorney when he previously held office as

Attorney. The history of the matter is dealt with in section 6 of the report of the Legislative Review Committee. I will not go into that matter in great detail other than refer members to it, but the current standard was defended by the then Attorney-General in 1986, when the Hon. Chris Sumner said:

> The requirement that a causal connection between the commission of the offence and the injury in respect of which compensation is sought must be established beyond reasonable doubt. That has been criticised by the Law Society and individual legal practitioners. In a civil claim for compensation the causal connection between the behaviour complained of and the injury only has to be established on the balance of probabilities. The higher burden of proof imposed by section 8 places an additional burden on victims of crime.
>
> The deletion of the reference in section 8 to the causal connection between the commission of the offence and the injury in respect of which compensation is sought will result in deserving victims recovering compensation who otherwise would not be compensated. The result will be that the commission of the crime must be established beyond reasonable doubt but that the injury sustained as a result of the offence will only need to be established on the balance of probabilities.

That was in consequence of amendments made in 1986. Those amendments stood and were not re-amended when the Act was extensively amended in 1993. The previous Government had always maintained that the standard should be the criminal and not the civil one.

The Legislative Review Committee in paragraph 6.5 of its conclusions was, once again, rather circumspect about the way in which its recommendations were framed. The committee agreed that:

> In theory a claimant for criminal injuries compensation should prove a crime and that in cases where a crime has not been proven in earlier proceedings the claimant can only prove a crime by satisfying the criminal standard of proof, namely, proof beyond reasonable doubt.

The committee noted that this criticism about the standard of proof does not arise in the vast majority of cases because, in the vast majority of cases, the offender has already been convicted and that conviction can be obtained only if the prosecution has discharged the onus of proving all elements of the offence beyond reasonable doubt.

However, there are some cases—not very many—where the issue of proof becomes irrelevant, and a couple of those cases are mentioned and explained in the committee's report. So, we are not dealing in this area with a substantial number of cases. However, notwithstanding that, as I mentioned previously, the effect of the change is not costed and responsibility in the current budgetary climate would require that such change be carefully costed before being adopted.

Finally, in relation to the Opposition amendments, the report of the Legislative Review Committee was reasonably extensive. The committee put forward to the Government a package of amendments which included such matters as an additional emphasis upon counselling and the provision of non-monetary forms of support to the victims of crime.

The committee recommended that there be a further examination of other forms of recompense, and certainly forms where less emphasis is placed on monetary compensation and a higher priority is given to the provision of adequate support services. In my view, it is not appropriate for the Opposition simply to pluck out of the report some of the recommendations of the Legislative Review Committee and then seek to have those adopted in the way in which it has done.

I support the second reading, and I support the principle of an adequate and effective criminal injuries compensation scheme. However, at present the scheme is costing substantially more than it was ever envisaged it would cost, and to adopt the measures proposed in the amendments, without having fully costed the effect of the amendments, would be irresponsible. I support the second reading.

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

DE FACTO RELATIONSHIPS BILL

At 6.57 p.m. the following recommendations of the conference were reported to the Council:

As to Amendment No. 1:

That the Legislative Council no longer insist on its disagreement to this amendment.

As to Amendment No. 2:

That the House of Assembly no longer insist on this amendment but make the following amendments to the Bill:

Clause 3, Page 1, Lines 18 to 21—Leave out the definition of 'certified agreement' and insert the following definition:

'"certified agreement"—an agreement is a certified agreement if—

(a) the agreement contains a provision (the warranty of asset disclosure) under which each party warrants that he or she has disclosed all relevant assets to the other; and

(b) the signature of each party to the agreement is attested by a lawyer's certificate and the certificates are given by different lawyers;'

Clause 3, page 2, lines 21 to 24—(definition of 'lawyer's certificate')—Leave out paragraph (b) and insert:

'(b) the party gave the lawyer apparently credible assurances that the party was not acting under coercion or undue influence; and'

And that the Legislative Council agree thereto.

As to Amendment No. 3:

That the Legislative Council no longer insist on its disagreement to this amendment.

ADJOURNMENT

At 6.58 p.m. the Council adjourned until Wednesday 24 July at 2.15 p.m.