LEGISLATIVE COUNCIL

Thursday 20 March 1997

The PRESIDENT (Hon. Peter Dunn) took the Chair at 11 a.m. and read prayers.

SUBORDINATE LEGISLATION (COMMENCEMENT OF REGULATIONS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General): I have to report that the managers for the two Houses conferred together at the conference, but no agreement was reached.

FRIENDLY SOCIETIES (SOUTH AUSTRALIA) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to make provision for a uniform legislative scheme for friendly societies; to repeal the Friendly Societies Act 1919; to make consequential amendments to the South Australian Office of Financial Supervision Act 1992; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it. Also, I seek leave to table a copy of the Friendly Societies Code as enabled by the Victorian Parliament, that code being referred to in the second reading explanation.

Leave granted.

The purpose of this Bill is to apply the *Friendly Societies Code*, which has been passed by the Victorian Parliament, as a law of South Australia. This will replace the *Friendly Societies Act 1919* which is repealed by the Bill. Savings and transitional provisions consequent on the enactment of the Act are to be made by regulations.

The crisis in non-bank financial institutions in the early 1990s, particularly in Victoria, highlighted the need for more stringent and uniform prudential standards governing the operations of building societies, credit unions and friendly societies throughout Australia. This led to the establishment in 1992 of the Financial Institutions Scheme for building societies and credit unions.

The *Friendly Societies Code* (under the Victorian Act) is the product of negotiations among the States and Territories and, to some extent, the Commonwealth. It follows the resolution of the Ministerial Council for Financial Institutions in May 1994 which adopted recommendations of the Special Premiers Working Group on non-bank financial institutions.

Under the Friendly Societies Scheme, the Financial Institutions Agreement between the States and the Territories will be extended in respect of legislation for friendly societies. The Scheme provides for both uniform prudential supervision and uniform legislation.

It is based on the Financial Institutions Scheme and has the following elements:

- The State Supervisory Authorities which currently supervise building societies and credit unions are to administer the uniform *Friendly Societies Code*, and supervise and enforce compliance by friendly societies in their jurisdiction with uniform prudential and disclosure standards designed to protect the interests of members. The South Australian Supervisor is the South Australian Office of Financial Supervision.
- The Australian Financial Institutions Commission will have its role expanded to promulgate the prudential and other standards for friendly societies and to co-ordinate uniformity among the Supervisors. The uniform prudential standards are to be set by AFIC after consultation with the industry. The primary focus of the standards will be directed towards the financial activities of societies and will have little, if any, application for a fraternal society.
- The ongoing costs of supervision are to be borne by industry on a "user pays" basis.
- The Ministerial Council for Financial Institutions approves of legislation and exercises general oversight over the Australian Financial Institutions Commission.

The uniform *Friendly Societies Code* proposed to be adopted by South Australia provides for the governance and regulation of friendly societies, and functions and powers of the State Supervisor. These are similar to the provisions of the *Financial Institutions Code* for building societies and credit unions. However, because of the issues unique to friendly societies (in particular, the need for special provisions relating to benefit funds and the responsibilities of actuaries of friendly societies), it was decided that discrete legislation be prepared rather than amend the *Financial Institutions Code* to integrate friendly societies.

The key elements of the Code are as follows:

- The *Friendly Societies Code* provides that the dominant activities of a new society must be within the scope of listed primary objects. These include the provision of financial and investment benefits relating to annuities, life insurance and superannuation, health and welfare, and death, sickness and accident benefits, and also provision of pharmaceutical services.
- Transitional regulations are proposed to allow an existing society, the activities of which do not comply with the primary objects requirements, to continue those activities. However, where that society purports to expand its activities beyond the scope of the saved activities, it must comply with the primary objects requirements.
- The Code regulates the establishment and management of benefit funds. These funds are the core activities of friendly societies, and the assets of each benefit fund must be kept distinct and separate from any other assets of the society. Benefit funds are established for purposes such as funds management and life and health insurance.
- Under the Bill, friendly societies will need to lodge a disclosure document, which is similar to a prospectus, with the State Supervisor in respect of any benefits offered. The Supervisor will be able to issue a "stop order", if for example there is substantial non-compliance or misleading statements, or complaints are received etc. These fundraising provisions reflect the proposals accepted by the Commonwealth in respect of interface of the *Friendly Societies Code* with the Corporations Law.
- Under the proposed legislation, only a society (or its authorised representative), or a licensed dealer or licensed adviser under the Corporations Law, may deal or advise in respect of friendly society benefits. An effect is that a friendly society will be responsible for its representatives that deal in the society's financial benefits. This will cover the present regulatory gap in the Corporations Law where dealing or advising in securities does not include securities where there is a life insurance element. The Commonwealth has advised that it does not presently wish to roll forward the operation of the Corporations Law in this area, although this may be reviewed following the outcome of the Wallis Inquiry into the Australian Financial system.
- The Code will allow a society to issue permanent share capital, if that is what the membership agree to, for example, for the purposes of funding growth and meeting capital requirements in competition with other financial institutions. A society may only be demutualised in accordance with the standards which will require extensive disclosure to members particularly in respect of existing members rights to reserves. The enabling provisions are the same as those in the *Financial Institutions Code*.
- The management provisions, which relate to duties of directors and officers, meetings of members, and accounts and audit requirements, are similar to those applying to building societies and credit unions and are similar to Corporations Law standards. In addition to audited accounts of a society, audited accounts of each benefit fund of the society must also be prepared.
- A member of a benefit fund has 1 vote, and a member of a society has 1 vote, on respective questions which may arise. Transitional regulations are intended to allow societies that do not conduct 'financial' business, that is, fraternal and pharmaceutical societies, to preserve collegiate or other voting systems. A permanent shareholding member may have up to 1 vote for each share held, if the rules of the society so provide.
- A society must have an appointed actuary unless exempted by the State Supervisor. The duties of the actuary include reporting to directors on proposed distributions of surpluses of benefit

funds and providing financial condition reports to the Supervisor. Generally, the actuary provisions in the Code have been based on provisions of the *Life Insurance Act* for the purpose of consistency of regulation.

- The Code allows for mergers and transfers of engagements between societies, and conversions to companies similar to provisions of the *Financial Institutions Code*. Conversions to incorporated associations are also included to enable the voluntary migration of, for example, fraternal friendly societies which operate like social clubs and have no benefit funds.
- External administration provisions are similar to those in the *Financial Institutions Code*, except that special attention is given to the winding up of assets of benefit funds so that the surplus assets of benefit funds are only available to meet the respective liabilities of the benefit funds.
- The legislation facilitates interstate trading by societies and protects State interests by providing for a system of foreign society registration by the host State Supervisor. A precondition to registration is that the home Supervisor must certify that it considers there is no good reason why the society should not be registered. Transitional provisions provide that a society that is already carrying on business in another State and that applies for foreign registration in 6 months will be deemed to be registered unless the Supervisor refuses the application to register. Refusal could apply in situations where the society is discovered to be prudentially unsound and unlikely to survive the proposed new supervisory regime. Prescribed provisions of the Code may be applied to a foreign society as if the foreign society were a local society.
- The penalties under the *Friendly Societies Code* are based on those in the *Financial Institutions Code*.

For the information of Parliament, a copy of the *Friendly Societies Code*, as enacted by the Victorian Parliament, is tabled.

However, honourable members should note that the initial legislation which was passed by Victoria last year is proposed to be amended before it comes into operation. The proposed amendments are primarily of a technical or drafting nature. It is also proposed to provide the Supervisor with the power to exempt from the provisions relating to dealing or advising in respect of a friendly society's benefits, and to mirror amendments currently proposed to corresponding *Financial Institutions Code* provisions.

These amendments must be approved by the Ministerial Council before introduction. If the amendments are secured by Victoria before the scheme's commencement, the amendments will form part of the initial legislation to be adopted by South Australia.

Members will note that this legislation reflects the template model for enactment of uniform legislation. The South Australian Government is always cautious about this sort of approach because of the extent to which Parliament ceases to have a role in legislative change once the initial legislation is enacted by the South Australian Parliament. Because of this caution, the Government considered alternative models, namely, consistent legislation or a hybrid involving the template model being used for the initial enactment with all amendments to be in the form of consistent legislation. However, taking all the considerations into account, the Government has favoured a template approach in this case.

Savings and transitional provisions are needed in a number of matters. Some have already been mentioned. Others are of a nature to permit societies a period of time to comply with the new requirements, such as the lodgment of disclosure documents and accounts and audit provisions, and also to wind down any deposit taking activities. In addition, the provisions are necessary in order to deem what funds of a society are to constitute a financial benefit fund or non-financial fund of a society.

The Bill provides for these matters to be provided for by regulation. It would, of course, have been preferable for these provisions to be detailed in this Bill. However, given the current status of friendly societies scheme legislation nationally and the proposed 1 July 1997 commencement, there are difficulties with that approach.

In particular, the amendments proposed to be made to the Victorian Act before the scheme commences are expected to give rise to the need for further savings and transitional provisions and there was concern that securing the passage of another Bill for this purpose before 1 July 1997 might not be achievable.

The detail of the savings and transitional provisions are of special interest to the industry which will be fully consulted.

Friendly Societies have a significant and important position in the South Australian market as providers of financial products. Funds under management in South Australia are in the order of $700 million.

The South Australian Government is supportive of the objective of maintaining a strong and viable friendly society industry in South Australia which is, for many South Australian households, a preferred alternative to the insurance sector. The proposals contained in the Bill have been discussed with the friendly society industry which is supportive of the Bill proceeding.

I commend the Bill to the House.

Explanation of Clauses

PART 1—PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

This clause contains definitions for the purposes of the Act. The package of new uniform legislation relating to friendly societies is defined as the friendly societies legislation of South Australia and comprises this Bill and regulations made under it, the *Friendly Societies (South Australia) Code* and the *Friendly Societies (South Australia) Regulations* and the uniform legislation relating to financial institutions as it applies to the uniform friendly societies code and regulations.

The clause also provides that definitions in the *Friendly Societies (South Australia) Code* apply for the purposes of the Bill and regulations made under it.

Clause 4: References to Victorian Acts

This clause provides that any reference to an Act of Victoria is to be taken to encompass amendments or substitutions.

PART 2—FRIENDLY SOCIETIES (SOUTH AUSTRALIA) CODE AND FRIENDLY SOCIETIES (SOUTH AUSTRALIA) REGULATIONS

Clause 5: Application in South Australia of Friendly Societies Code

This clause applies the *Friendly Societies Code* (set out in Schedule 1 of the *Friendly Societies (Victoria) Act* as a law of South Australia to be known as the *Friendly Societies (South Australia) Code*.

Clause 6: Application of regulations

The regulations in force for the time being under Part 4 of the *Friendly Societies (Victoria) Act* apply as regulations in force for the purposes of the *Friendly Societies (South Australia) Code* to be known as the *Friendly Societies (South Australia) Regulations*.

Clause 7: Interpretation of some expressions in Code and Regulations

This clause defines a number of expressions used in the uniform Code and uniform regulations for the purposes of their proper interpretation in South Australia (*e.g.:* 'Legislature of this State' is defined as the Legislature of South Australia).

PART 3—CONFERRAL OF FUNCTIONS AND POWERS

Clause 8: Conferral of functions and powers on Commission

This clause provides that the Australian Financial Institutions Commission has the functions and powers conferred or expressed to be conferred on it by or under the legislation defined as the friendly societies legislation of South Australia (*see clause 3*).

Clause 9: Conferral of functions and powers on Tribunal

This clause provides that the Australian Financial Institutions Appeals Tribunal has the functions and powers conferred or expressed to be conferred on it by or under the friendly societies legislation of South Australia.

PART 4—LEVIES, FEES AND OTHER AMOUNTS

Clause 10: Supervision fund

This clause imposes the fees prescribed by the *Friendly Societies (South Australia) Regulations* or by the *AFIC (South Australia) Regulations* in respect of matters referred to in the friendly societies legislation of South Australia.

Clause 11: Levies

This clause imposes—

- the levy payable under sections 119 and 120 of the *AFIC (South Australia) Code* by a friendly society; and
- the supervision levy payable under section 51 of the *Friendly Societies (South Australia) Code* by a friendly society.

Clause 12: Fees, fines and penalties

This clause provides that all fees, fines and penalties and other money that are authorised or directed to be imposed on a person because of the friendly societies legislation of South Australia but that are not fees, levies or other amounts payable to a specified person must be paid to South Australia.

PART 5—GENERAL

Clause 13: State supervisory authority

This clause provides that the South Australian Office of Financial Supervision is the State supervisory authority for the purposes of the friendly societies legislation of South Australia.

Clause 14: Crown is bound

It is proposed that the Crown, in right of the State and, so far as the legislative power of Parliament permits, in all its other capacities will be bound by this measure. However, nothing in this clause will permit the Crown in any of its capacities to be prosecuted for an offence.

Clause 15: General regulation making power

This clause provides that the Governor may make such regulations as are contemplated by or necessary or expedient for the purposes of this measure.

Clause 16: Special savings and transitional regulations for South Australia

This clause provides that the Governor may make regulations of a savings or transitional nature consequent on the enactment of this proposed Act or of an Act of Victoria amending the *Friendly Societies Code* set out in Schedule 1 of the *Friendly Societies (Victoria) Act* and if such a regulation so provides, it has effect despite any provision of this proposed Act. A provision of a regulation made under this clause may, if it so provides, take effect from the day of assent to the Act concerned or from a later day. However, to the extent to which a provision takes effect from a day earlier than the day of the regulation's publication in the *Gazette*, the provision does not operate to the disadvantage of a person (other than the State or a State authority) by—

- decreasing the person's rights; or
- imposing liabilities on the person.

SCHEDULE—REPEAL AND CONSEQUENTIAL AMENDMENTS

It is proposed to repeal the *Friendly Societies Act 1919* and to make amendments to the *South Australian Office of Financial Supervision 1992* that are consequential on the passage of this Bill, particularly, the passage of clause 13 of the Bill.

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

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Criminal Law (Sentencing) Act 1988, the Enforcement of Judgments Act 1991, the Evidence Act 1929, the Fences Act 1975, the Law of Property Act 1936, the Magistrates Act 1983 and the Statutes Amendment Repeal (Common Expiation Scheme) Act 1996. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

There is a need for minor, uncontroversial amendments to several Acts administered by the Attorney-General which can conveniently be dealt with in the one Portfolio Bill.

Criminal Law (Sentencing) Act 1988

While section 13 provides that the Court must not make an order requiring a defendant to pay a pecuniary sum in certain circumstances, the Act does not clearly state that the Court may order a defendant to pay a proportion of that pecuniary sum. It does appear that the Court could order part payment of the pecuniary sum under the current section. However, the proposed amendment will make it clear that the Court may order part payment, which should eliminate litigation on this issue.

Enforcement of Judgments Act 1991

Currently, a sheriff is permitted to break into property to execute warrants issued in the Superior Courts or the Magistrates Court Criminal Jurisdiction, or warrants for the seizure and sale of property. However, the Sheriff is not permitted to break into premises to execute a warrant for contempt issued in the Magistrates Court Civil Jurisdiction. In practical terms, if a warrant for possession is issued in the Magistrates Court Civil jurisdiction the sheriff could break in. However, if the person from whom the property is taken, resumes the property, and therefore commits a contempt of the court, the sheriff would be unable to break into property to execute the warrant of arrest for the contempt. The amendment will rectify this anomaly.

Evidence Act 1929

Under section 71a of the *Evidence Act 1929*, the identity of a person accused of a sexual offence and evidence relating to the sexual offence is suppressed until the person has been committed for trial or sentence in a higher court, or until the charge is dismissed or proceedings lapse for any reason. This means that if a person is accused of a summary sexual offence or a minor indictable sexual offence that is to be treated as a summary offence, there is no point at which the identity of the person and evidence relating to the sexual offence may be published. The amendment creates a point at which the identity of the accused person and evidence relating to the sexual offence may be published if the matter is dealt with summarily.

In addition, the *Evidence Act* provides that the evidence in a preliminary examination relating to sexual offences will be suppressed automatically until the specified dates. The rationale is that a person should not be publicly associated with sexual offences until it has been determined that there is sufficient evidence for the accused to have a case to answer. However, changes to the categories of offences has resulted in some sexual offences being classified as summary offences. Other provisions allow a minor indictable offence to be dealt with summarily, unless the accused elects otherwise. Because summary offences do not have a preliminary hearing, there is no automatic suppression of evidence. Therefore, there is inconsistency between the release of evidence for sexual offences dealt with in the Magistrates Court and indictable sexual offences dealt with by a superior court. The proposed amendment will eliminate the hole that currently allows the former to be reported, and will ensure that the accused is not publicly linked to the sexual offence until it is certain that the accused has a case to answer.

Fences Act 1975

There is unfairness to farmers in fringe rural/urban areas due to the *Fences Act 1975*. Under the *Fences Act* home owners are able to seek contributions from their neighbours for the cost of adequate fencing. However, what is adequate for the home owner's purpose, and what is adequate for the farmer's purpose may differ. The amendment deals with the problems associated with the rural/urban interface by providing that a farmer will only be liable for half of the cost of maintaining a fence fit for the farmer's purpose, while the home owner is liable for the remaining cost of a fence suitable for the home owner's purpose. However, the contribution will not change for fences in urban/urban or rural/rural areas. The effect of this provision is that farmers whose fencing needs are less than their residential neighbour, will not be forced to subsidise the needs of their neighbour.

Law of Property Act 1936

Under the Act the Supreme Court is given jurisdiction in all matters arising under the Act. On the face of it therefore, parties must incur the higher expense of the Supreme Court to enforce their rights, and the expensive resources of the Supreme Court are being used for comparatively minor matters. However, because the District Court has the same civil jurisdiction as the Supreme Court, and the Magistrates Court may determine "an action (at law or equity) to obtain or recover title to, or possession of, real or personal property where the value of the property does not exceed $60 000", the lower courts may already also possess the power to determine matters under the Act. The amendments will take away the uncertainty that currently exists in relation to the jurisdiction of the District Court and Magistrates Court under this Act. However, the Supreme Court will retain exclusive jurisdiction in respect of class closure, perpetuities, and accumulations.

Magistrates Act 1983

Currently, despite the Chief Magistrate being responsible for the general management of the magistrates, the Act gives the Chief Justice the duty of directing a stipendiary magistrate to perform special duties. This is inconsistent with the supervisory role which the Chief Justice generally takes in the Magistrates affairs. The proposed amendment which allows the Chief Magistrate, with the concurrence of the Attorney General, to direct that a stipendiary magistrate perform special duties, will ensure that the Chief Justice only has a supervisory role, and the Chief Magistrate has the management duties.

Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996

Minor amendments to the *Fisheries Act* and *Travel Agents Act* were omitted from this Act which made minor amendments to a number

of Acts in preparation for the Common Expiation Scheme. These proposed amendments will amend the Act to cater for the introduction of the Common Expiation Scheme.

Explanation of Clauses

PART 1
PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause is standard for a statutes amendment Bill.

PART 2
AMENDMENT OF CRIMINAL LAW (SENTENCING) ACT 1988

Clause 4: Amendment of s. 13—Order for payment of pecuniary sum not to be made in certain circumstances

This clause amends section 13 of the principal Act to make it clear that where that section applies the court may order the payment of a reduced pecuniary sum.

PART 3
AMENDMENT OF ENFORCEMENT OF JUDGMENTS ACT 1991

Clause 5: Amendment of s. 12—Enforcement of judgments by proceedings in contempt

This clause amends section 12 of the principal Act to give the sheriff power to enter or break into land when executing a warrant for contempt of court issued under the Act.

PART 4
AMENDMENT OF EVIDENCE ACT 1929

Clause 6: Amendment of s. 71a—Restriction on reporting proceedings relating to sexual offences

This clause amends section 71a of the principal Act to make it applicable to summary offences and minor indictable offences that are to be treated as summary offences (because the defendant has not elected for the matter to be heard by a superior court).

Subsection (1), which currently applies to preliminary examinations, is broadened to apply to any proceedings before a magistrate or justice in relation to a sexual offence. The "relevant date" (before which information described in subsections (1) and (2) cannot be reported) is defined, in relation to summary offences and minor indictable offences that are treated as summary offences, as the date on which a plea of guilty is made or the date on which an accused is found guilty following a trial.

PART 5
AMENDMENT OF FENCES ACT 1975

Clause 7: Amendment of s. 12—Powers of court

This clause amends section 12 which deals with court orders for contribution to the cost of fencing work. The amount that a neighbouring land owner is liable to contribute is based on the cost of an "adequate fence". What is "adequate" is then determined by reference to the locality in which the fencing work is to be performed. The amendment provides that, in the case of a fence dividing farm land from land used for residential or other purposes, an adequate fence is a fence that is adequate for the farming purposes.

Clause 8: Amendment of s. 16—Damage to or destruction of dividing fence

This clause amends section 16 of the principal Act to ensure that the contribution payable for repairs to a fence will not exceed the amount that a person would be liable to pay if the fence were completely replaced.

PART 6
AMENDMENT OF LAW OF PROPERTY ACT 1936

Clause 9: Amendment of s. 7—Interpretation

This clause replaces the definition of "court" with a definition that includes the District Court and the Magistrates Court as well as the Supreme Court. The Magistrates Court is given jurisdiction to determine matters involving property with a value not exceeding $60 000.

Clause 10: Amendment of s. 55a—Enforcement of rights against mortgagor

This clause ensures that the new definition of "court" applies in relation to this section by removing references which would be inconsistent.

Clause 11: Insertion of section 58a

This clause inserts a new provision in Part 6 of the Act ensuring that jurisdiction under that Part (which deals with perpetuities and accumulations) will remain exclusively with the Supreme Court.

Clause 12: Repeal of s. 85

This clause repeals section 85, which provides that the Supreme Court may make rules in relation to partition proceedings. The reference to the Supreme Court would be inconsistent with the new definition of "court" and the section is, in any case, now unnecessary.

Clause 13: Amendment of s. 105—Questions between husband and wife as to property

This clause ensures that the new definition of "court" applies in relation to section 105 by removing references which would be inconsistent.

PART 7
AMENDMENT OF MAGISTRATES ACT 1983

Clause 14: Amendment of s. 13—Remuneration of magistrates

This clause amends section 13 of the principal Act to remove the reference to the Chief Justice and substitute a reference to the Chief Magistrate.

PART 8
AMENDMENT OF STATUTES AMENDMENT AND REPEAL (COMMON EXPIATION SCHEME) ACT 1996

Clause 15: Amendment of Schedule

The new expiation scheme established by the *Expiation of Offences Act 1996* came into operation on 3 February 1997. The consequential amendments to various Acts contained in the Schedule of the *Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996* also came into operation on 3 February, except that the operation of the amendments to the *Fisheries Act 1982* and to the *Travel Agents Act 1986* was suspended. The suspension was necessary to enable the amendments set out in this clause to be made.

The amendments to the *Fisheries Act 1982*—

- remove references to the special fisheries expiation scheme from sections 5(1) and 28(9)*(ca)*; and
- provide for expiation of offences against sections 41 and 42 of the *Fisheries Act 1982* (these offences are currently expiable under the regulations).

The *Travel Agents Act 1986* was amended after enactment of the *Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996* but before 3 February 1997, rendering the amendments in the Schedule obsolete. The amendment to section 46(2) places a limit on the level of expiation fee that may be imposed by regulation, similar to the limit that applies in other occupational licensing legislation.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

PUBLIC FINANCE AND AUDIT (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 March. Page 1181.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. This Bill has been prepared at the request of the Auditor-General to provide a legislative base for him to report to Parliament and to summarise the summary of the contracts. The amendments contained in this legislation also provide that the Auditor-General's Report is to be made to the Minister who has requested the report and to the President of the Legislative Council and the Speaker of the House of Assembly.

The Auditor-General has also asked that another amendment be included in the Bill to authorise the Auditor-General to table a supplementary report to his annual report. We believe that this amendment is very necessary. As the Auditor-General has made the request, we are happy to support it and expedite the passage of this Bill.

The Hon. M.J. ELLIOTT: I support the second reading. I understand that the Bill's origins are as a consequence of a request of the Auditor-General. I do not have any particular concerns about what is within the Bill, although I have some concern about perhaps an indirect consequence of the passage

of the Bill in its current form. The reason why we are discussing this Bill relates to attempts by select committees of this Legislative Council to inquire into a number of Government contracts. The Hon. John Olsen, not long after he came into Government in material that he put out, told people that if they applied for a contract with the State Government it was possible that their contracts might be examined by either the Parliament or the committees. I have a copy of the document that he circulated at the time. Despite the view of the Hon. John Olsen at that time, when this House, through committees, sought to examine at least four separate contracts, the Government refused to supply those contracts.

There was some interesting discussion at the time about the powers that the Parliament did or did not have in terms of demanding such contracts. I draw to the attention of this House that such a debate has not just been happening in South Australia, but a similar debate has been taking place in New South Wales, where the Legislative Council sought to see certain State documents there on a matter and in fact instructed a member of its own House to provide those documents. When that member refused to comply, the Legislative Council took action against him—that was the Hon. Mr Egan—and in fact he was physically removed, not just from the Chamber, but from the Parliament itself. He then took legal action, claiming an act of trespass, as I recall, in relation to his removal. I invite members to look at that case of *Egan v Willis & Cahill*, in which judgment was delivered on 29 November 1996. It explores, in a way that I am not aware of any court in Australia previously having explored, the powers of Parliaments to demand papers. I believe the judgment makes it quite plain that, indeed, the Parliament does have the power to demand papers. I believe that judgment has applicability here.

I note that the State Government in New South Wales is now appealing to the High Court. It might be six months before we obtain the definitive judgment. However, the point I am making is that the Supreme Court in New South Wales is finding that the Parliament has the power to look at such documents. I have no doubt that it has direct applicability in relation to the stand-off that occurred here in South Australia.

The Opposition, for whatever reason, made a decision last year that it was not at the time going to insist on the full contracts being put to the committee, but I believe it said that if it was not satisfied with the process it still at a later stage might ask to see the full contracts. So, it had not agreed to the fact that it would not see the full contracts, but said it was prepared to look at a summary of the contracts. On 9 August last year there was an exchange of documents between the Government and the Labor Party on summary of contracts and the fact that they would be supplied and not the full contract. Now a considerable period later, seven months, the Auditor-General is apparently looking at summaries; I do not know how many he is looking at and what form they take, but he has some concerns about his ability to report when Parliament is not sitting and about protection in terms of what comments he might make without protection of Parliament. He is, therefore, seeking what is largely in this Bill.

This in some ways goes full circle. The Attorney-General might try to argue this is not necessary, but I have a real concern that inserting into the legislation a clause which relates to confidential Government contracts and which seems to have the sole purpose of looking at contracts that might be deemed to confidential in that way might have some impact on later court interpretations. I would hope that the Government would say that is clearly not the intention, that it is not meant to limit the powers of Parliament in any way and the courts may or may not interpret it that way, but I want to put it beyond any doubt that we are not in the process of empowering the Auditor-General and disempowering ourselves. So, I will be moving an amendment during the Committee stages which will make it plain that section 41A, which is being inserted, will not limit or affect the power of a House of Parliament or a committee of Parliament to require the production of documents.

At this stage, I do not care whether the Attorney-General says it is not necessary; I want to put it beyond any doubt whatsoever and insertion of such a subclause would do so. I do not think that it is unreasonable in the circumstances, considering that we were not told until last Friday that the Government wanted to put the Bill through. We did not see a copy of it—

An honourable member interjecting:

The Hon. M.J. ELLIOTT: No, I am happy to facilitate the Bill going through quickly, but we have had it for a very short time, and perhaps with more time I might have been convinced that my amendment was not necessary. But having been given a very short time to look at the consequences, and even unintended consequences of the Bill, my amendment is simply seeking to put the question beyond any reasonable doubt that the Parliament is not being seen to limit its powers in any way. In so saying, I support the second reading. I do not have any problems with the substance of the Bill itself.

The Hon. R.D. LAWSON: I, too, support the second reading of this Bill. At first glance, I thought it was perhaps unnecessary for the Public Finance and Audit Act to be amended in this way, but when one examines the powers of the Auditor-General under the existing legislation, it is fairly clear that those powers on one view are rather narrowly defined and, on another, are not constrained by much at all. However, the Auditor-General has requested that he be specifically authorised by statute to undertake the certification of summaries of contracts, and he has requested specific authorisation to prepare supplementary reports. On that last issue, I would have thought it obvious, from the terms of the Act itself, that the Auditor-General did have that power and the present obligation to provide a report encompassed within it a right to deliver a supplementary or amended report if he so chose.

I think the State has been well served by the Auditor-General and his officers. The reports over the years have been helpful to the public and the Parliament. The current occupant of the office is a most conscientious officer of Parliament and we are in his debt. I must say, also, the preparation of summaries of Government contracts is a good idea. As one who has spent a lot of my professional life examining contracts, I am well aware of the complexity of modern contracts, especially contracts of the sort that Governments enter into. Very often the contracts are voluminous and supported by technical data which occupies not only hundreds of pages but also volumes as well. The Parliament, Ministers and members would be assisted in many cases by the preparation of neutral summaries of the primary conditions of contracts.

The Hon. M.J. Elliott interjecting:

The Hon. R.D. LAWSON: The Hon. Michael Elliott has referred to the fact that contracts have been requested by a couple of parliamentary committees. I am sure that the work of those committees will be aided by the preparation of

summaries and reassured by the fact that the Auditor-General certifies their correctness. I support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the Bill. This was first raised by the Auditor-General as he worked through the summaries with which he was asked to deal—and there were three of them. The Hon. Michael Elliott said that he did not know how many of them there were—there were three: the Group 4 contract is already out in the public arena, and that is not the subject of a summary. My recollection is that he raised it the week before last. I did not believe that it was really necessary but, on examination, and after discussion with the Auditor-General, we decided to try to get legislation through.

Whilst I acknowledge that the Bill finally got to members at the end of last week and that there has not been a lot of time to deal with it, the Government acted in good faith to give as much notice as was possible to both the Opposition and the Australian Democrats with a view to trying to get the Bill through both Houses this week. Quite obviously we did not want to be the subject of any further criticism about alleged delays and that we were trying to hold it up, and that is why it is important in everybody's interest to facilitate the consideration of this Bill.

The Hon. Mr Elliott has made reference to the Egan case. I do not intend to comment on it. It is the subject of an appeal and we will await the outcome with interest. In terms of the amendment which we will deal with in a moment during the Committee stage, I want to make this observation: I do not think it is necessary and we will not support it. I raise this other concern, that is, that if the amendment goes into this section which we are proposing and which will deal with contract summaries, and it is not in relation to other parts of the principal Act, what questions does that raise in relation to the interpretation of other provisions? Does it then mean that, because it appears in this section (if the amendment should be successful) and does not appear in the rest of the Act, the rest of the Act in some other way operates to play down the powers of the Parliament and its committees?

We have brought forward this amendment which the Auditor-General agrees with in good faith, and it is designed to ensure that he can properly deal with contract summaries. The Auditor-General's involvement in the contract summary process is part of the protocol which I negotiated with members of the Opposition and which I think will provide a good mechanism for dealing with these issues. All this Bill seeks to do—and it is brought forward in good faith and does not have anything sinister behind it—is to ensure that the Auditor-General is both comfortable and protected in undertaking the role which he has been requested to undertake. That is the rationale for it. I will indicate again that during the Committee stage I and the Government will not be supporting the amendment of the Australian Democrats.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—Insertion of s. 41A.'

The Hon. M.J. ELLIOTT: I intend to move the amendment in an amended form so that I can respond to an issue raised in the second reading debate by the Attorney-General. I move:

Page 2, after line 18—Insert subclause as follows:

(7) Nothing in this section (or any other provision in this Act) limits or affects the power of a House of Parliament or a committee of Parliament to require the production of documents.

The Attorney-General raised a concern that, by inserting this into this clause, by inference it could be read that anything else in the rest of the Act might mean therefore that the Parliament could not look at documents.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: I thought it was a fair enough question and I have addressed it.

The Hon. K.T. Griffin: It will still not go through. It will not go through with that in.

The Hon. M.J. ELLIOTT: I am quite surprised by the interjection of the Attorney-General. During the second reading—

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: The Attorney-General, in response to my comments during the second reading debate, suggested that the amendment I had on file might have created another problem. I thought that that was a fair enough comment, and I sought to address it. We are talking about the Public Finance and Audit Amendment Bill. I do not believe there is any other part of the Act that should have created a problem, but I am quite surprised that, having sought to insert these words to address the problem that he raised, he then says that the Bill will fail.

This is a place for sensible debate. There is no complaint whatsoever about the fact that we had a short time to consider this, but I have said there is a concern that, with the passage of this proposed new section 41A, there may have been an unintended consequence which would limit the powers of the Parliament. Seeking to put that beyond any doubt, I drafted an amendment. The Minister raised some question about whether that amendment had further consequences. I further amended it to try to pick that up, but then he goes mini ballistic. I find that most distressing and I am indeed surprised.

The Hon. K.T. GRIFFIN: The honourable member should not be surprised. He is making an amendment on the run. The first I have seen it, except in the original form, is now. Do we go through every Act of Parliament and put into it something like, 'Nothing in this section or any provision of this Act limits or affects the power of a House of Parliament or a committee of a Parliament'? The fact is that the Auditor-General has a duty to report to the Parliament under the Act. No-one has ever suggested that either in this section or in the Act there is any attempt by Government, directly or indirectly, to limit the powers of Parliament. This is here to facilitate consideration of issues.

I do not know how the honourable member can, by reading the section which is in the Bill, gain any indication at all that in some way or another, hidden or otherwise, this will have so-called unintended consequences. It facilitates, it empowers the Auditor-General. It does not do anything in respect of the Parliament. I am not prepared to agree to this amendment or any variation of it as now moved without having a good look at the constitutional and other implications and whether we are required to put it into every other piece of legislation. If it is in one, what supposition does that raise in relation to other pieces of legislation which someone might argue seek to limit the power of the Parliament? I just think it is a nonsense. That is why I am going mini ballistic.

The Hon. M.J. ELLIOTT: There are constructive ways of handling this. I raised the problem, and there may have been other ways of tackling it. Again, thinking on the run,

another way of tackling it could be within section 41A to make it plain that the Government may choose to refer documents to the Auditor-General, and under those circumstances this applies.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: No, but the section begins with the words, 'This section applies to a contract. . . ' and then goes to paragraph (b), '. . . which are affected by contractual or other requirements as to confidentiality.' What it seems to be saying is that, as to a contract which may have confidentiality clauses within it, it might be taken for granted that this is the way it will always be handled, and that the very existence of confidentiality clauses would mean it would go to the Auditor-General. I would have thought there may have been another way of drafting it, if he was not happy with my particular response to it. I have raised the issue. I think it is a fair enough question.

The Hon. CAROLYN PICKLES: The Opposition was inclined to support the amendment to allow for some further discussions. However, the Hon. Mr Elliott has now quite considerably changed the amendment which might have some other implications. It may well be that, as the Attorney has indicated, the original amendment—or even the amended amendment—was not necessary, but my advice is that, without reading the whole of the Act, it would not be possible to assess whether or not it was necessary.

I think we all want to be constructive about this, and I am sorry that the Attorney-General has issued the threat that he will not proceed with the Bill. The Opposition is keen, as we indicated in our private discussions with the Government, to expedite the passage of this Bill. It may well be more productive, if we are genuine in our attempt to try to see this Bill go through today, if we could perhaps report progress, put it on motion, and have a discussion between all three Parties. I think that would be a productive way to proceed, instead of issuing a sort of threat to us that the Bill will be pulled.

The Hon. Anne Levy: Bully boy.

The Hon. CAROLYN PICKLES: It is not normal procedure for the Attorney-General to be a bully boy. I am trying in good faith to do something about this legislation. We want the legislation to go through. There has obviously been some great concern and disquiet about the whole process of these contracts. We believe there is goodwill to get this through. May I suggest that the Attorney report progress and we go away and discuss it in a sensible fashion.

The Hon. M.J. ELLIOTT: To respond to the suggestion made by the Leader of the Opposition, frankly the debate itself should not take more than a few minutes when we return to it.

The Hon. K.T. Griffin: You go to a deadlocked conference.

The Hon. M.J. ELLIOTT: You are being pre-emptive to suggest we go to a deadlocked conference when it may be possible to find another way of tackling the issue which might meet the rigorous tests that the Attorney-General might want to apply to it.

The Hon. K.T. GRIFFIN: In a spirit of cooperation I will take that course. It is not bully-boy tactics. The Government is trying to facilitate the processing of the contract summaries. I will have to go to the Solicitor-General and talk to him about it. I do not know on the run what will be the impact of this in relation to other parts of the legislation. I know the Hon. Michael Elliott is paranoid about Government power, but I have tried to explain this to him sensibly, although going mini-ballistic in relation to the way in which this is now being amended—and I acknowledge that. We are genuinely trying to facilitate the provision of summaries.

This amendment is not acceptable to the Government on quite proper, reasonable, legal and policy grounds. If there is any suggestion that we can reach a compromise on this amendment, I say here and now that I do not believe that that is possible. If it is insisted upon and goes to a deadlocked conference, I am simply saying that the facts of life are that either the Bill will not be finally considered in this part of the session and everybody will have to wait another two months or the Bill goes through without the amendment. I am happy to talk to people about it, but I can tell members that, from the perspective of Government policy and legal implications, I will have to take up the matter with the Solicitor-General, and I cannot do that today on the run and get quick advice about something which may have wide-ranging ramifications across the whole of the statute law passed by this Parliament. They are the facts. I am perfectly comfortable in moving that progress be reported.

The Hon. M.J. ELLIOTT: I had a quick conversation with Parliamentary Counsel. I am looking at a structure essentially the same as it is now whereby proposed new section 41A (1) would start off saying that 'where a contract exists between the Crown and involves confidentiality (or some such wording) the Minister may refer it to the Auditor-General to have a summary document produced'. It would then essentially flow as it is here. Even just a structure of that form enables the Government to do precisely what it is doing and intends to do, but may have the effect for which I was hoping.

The Hon. K.T. GRIFFIN: The Auditor-General has signed off on this. If we are to start reframing the new section, even though it may end up being almost the same in terms of its outcome, I then have to talk to the Auditor-General. I and the Government will not put this through the Parliament unless there has been proper consultation with the Auditor-General. The Auditor-General got his own independent legal advice on this and on Friday or Monday we made an additional amendment after the Bill had been finalised. In fact, I think it was probably made on Tuesday. It allowed the Auditor-General, in consequence of the legal advice he had, not only to provide a report but also to include therein the reasons why he may say 'Yes' or 'No.' He took the view that he needed something in there to give him that latitude. That was agreed.

I am happy to report progress so that everybody can think about it. I am happy to talk with members of the Opposition, or anyone it wishes to nominate, but it will not be possible to change the framework of this section without consulting with the Auditor-General. We can do what we like as a Parliament and the Auditor-General will have to live with it, but I have tried to deal with this on a proper consultative basis and I will not run the risk of someone saying later, 'You have fouled it up and the Auditor-General cannot do this,' because the first thing that will happen is that from either the Opposition or the Democrats I will get a public bashing about having fouled it up, and I am not prepared to wear that. We have tried to deal with it responsibly and reasonably. I know the time limit has been difficult, but I thought that in good faith we could get something through the Parliament which facilitated rather than hindered the process that had been agreed.

The Hon. M.J. ELLIOTT: The amendment that I foreshadowed would not in any way change the role of the Auditor-General. If we are talking of having agreed to

something and not wanting to change it, the sort of amendment that I have just foreshadowed in no way changes the Auditor-General's role. Essentially it looks at the drafting of new subsection (1), which does not involve the Auditor-General. New subsections (2), (3) and (4) talk about what happens after it has been referred. To suggest that the sort of amendment that I foreshadowed would in any way affect or hinder the Auditor-General is a nonsense. At least let us have an argument on the facts rather than on emotion. The sorts of change I foreshadowed in new subsection (1) would not in any way impact upon the Auditor-General.

The Hon. K.T. GRIFFIN: I do not think the honourable member has any experience in dealing with statutory officers or others. The Auditor-General is not difficult at all. However, we have tried to deal with this on the basis that he accepts the provisions which we seek to enact and which relate to his responsibility. The honourable member has been flagging these on-the-run concepts and even drafting. It may be that in the context of proposed new subsection (1) it will mean some other changes. We may be satisfied in the end that there are no consequences for the Auditor-General, but I feel duty bound, having got his sign off on the precise form of this drafting, to go back to the Auditor-General, and he may feel that he has to get advice from his own independent legal adviser.

If members want to go through the process we will do it, but it will not be done today. I want to facilitate. I am happy for the Opposition in particular to give consideration to these issues and happy to talk to anyone about them. I can tell members what are the difficulties. Members do not realise how much time and effort has gone into the consultation process with the Auditor-General and others in getting it to the point where it can be introduced. It may not seem to have required significant time and effort, but it has, not only by me and the Auditor-General but also by legal officers and advisers. Therefore, I suggest that progress be reported and the Committee seek leave to sit again.

Progress reported; Committee to sit again.

LOCAL GOVERNMENT (CITY OF ADELAIDE ELECTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 March. Page 1180.)

The Hon. P. HOLLOWAY: The Opposition supports the Bill, in spite of the fact that it is being pushed through both Houses within a week. Of course, there are special circumstances relating to the Bill, and I will briefly go through them. First, the Bill is very simple in its effect. It boils down to just one paragraph because the Governor:

> . . . may, by proclamation, determine that a general election will be held for the City of Adelaide on a Saturday falling on or after 2 May 1998 but not later than 5 September 1998.

In other words, the Bill simply says that the term of the City Council, which will be elected on the first Saturday in May next, will have a term of somewhere between one year and 18 months. The background to the Bill lies with the Government's attempts during the latter part of last year to sack the council. All members would recall the lengthy debates we had over that.

Ultimately, the Government's attempts to sack the City Council were rejected. We had a situation where all sorts of reasons were given for the sacking, and they appeared to change almost on a daily basis. At the end of the day there was a change of Premier, and the new Premier very wisely decided that he should go back to the drawing board and reconsider the whole issue.

Indeed, at the end of the debate on that issue, when it was announced that the Bill was being withdrawn, I made the comment that I hoped the new Premier would go and talk to the council, the LGA and other parties involved, including the political Parties, and put forward a proper reform proposal with proper terms of reference. Some time has passed since then but at least we now have that. On 6 March the Premier made a ministerial statement in the other place when he announced the establishment of the Governance Review Advisory Group to investigate all aspects of governance relating to the City Council. This group will report to the Minister for Local Government by 31 December this year. I was pleased to note from the statement, first, that the advisory group, which comprises three independent members, two of whom are presently members of the Local Government Boundary Reform Board, will be well aware of the issues of local government reform.

Also, I was pleased to note that the terms of reference for the group were fairly comprehensive, and included such matters as the external boundary of the Adelaide City Council, the arrangement of ward boundaries, the electoral franchise and so on. That was really the point that the Opposition had argued during the debate last year: that there should be a wide ranging review of governance of the city that should cover all relevant issues. I am pleased to see that that has finally happened and, as a result, the Bill will now go forward to ensure that, when the report comes down at the end of the year and the Government has had an opportunity to act on it, a new council will be elected for the City of Adelaide sometime between May and September next year.

I would like to make a couple of comments about that. First, at the end of the day when the report from the Governance Review Advisory Group comes down it will still be up to this Parliament to make the decisions about what happens regarding the future of the City of Adelaide. So, even though this group will no doubt make a very comprehensive report and consider all the issues involved, it will finally still be up to this Parliament to decide what will happen to the city of Adelaide.

Also, it is probably not technically necessary to pass the Bill in such a short time—and the Attorney can correct me if I am wrong—except that it is a cleaner way of doing things. If the Bill is passed this week before the council elections are held, then it places on notice anyone standing for the City of Adelaide at the next elections on 2 May this year that their term will be between 12 and 18 months. I guess that they have accepted that already, even without the passage of the Bill. That has been made clear, but this is a neater and cleaner way to do it: to have the Bill firmly in place before the time of the election.

I do not wish to take up too much time of the Council, other than to say that the Opposition welcomes the final resolution of this matter. It has been our position all through the past 12 months that there is a need for substantial change to the governance of the City of Adelaide. The only arguments we have had are over the extent of the review of governance issues and, of course, the principle that we fought last year was that a council should not be sacked without sufficient reason. Fortunately, those matters are now resolved and we can move ahead.

I want to make one final comment about the council elections. I noted yesterday that the Hon. Bernice Pfitzner

made some rather extraordinary allegations during her speech about one of the candidates for the mayoralty of the City of Adelaide at the coming elections. I believe that those allegations really centre around guilt by association.

The Hon. Bernice Pfitzner effectively challenged one of those candidates to prove himself innocent of some rather vague allegations that were made. I believe that those allegations were a gross abuse of parliamentary privilege. If the honourable member believes that some impropriety has taken place, she certainly has a duty to bring it forward before this Parliament. However, I believe she should produce a lot more evidence than the guilt by association and hearsay to which she referred yesterday.

I have met only once, very briefly at a function, the person to whom she was referring. I have no knowledge of any of the matters to which the Hon. Bernice Pfitzner was referring, but I believe that, if she is going to make those sorts of allegations, she should provide much more evidence than she did yesterday. It is a completely unsatisfactory situation where allegations can be made under parliamentary privilege. They can gain prominence in the paper and the person concerned has no opportunity to refute them. Basically, the person is in a position where he has to prove himself innocent of some very unspecific charges. I will not go into that matter further, but I believe that I should put those matters on the record.

I am pleased the Bill will go ahead and I look forward to the recommendations coming down from the Governance Review Advisory Group; I am sure we will be considering them at this time next year. Let us all hope that as a result we will have much better governance of the City of Adelaide in the future.

The Hon. M.J. ELLIOTT: I support the second reading. This Bill has come about through a process which has been lengthy, not because an enormous amount of effort has been put into it in some regard. It is worth noting that when the issue of sacking the Adelaide City Council was raised last year, the Democrats—and I note the Labor Party also—while we opposed the sacking of the council said, 'There are some important issues that need to be addressed.' That has been debated at length previously so I need not put it on the *Hansard* record on a second occasion.

There was never any question about the need for an examination of the role of the council, its structure, powers, and so on. The question was how it was to be done and whether or not the council would be sacked. The Democrats took the unequivocal position of not supporting a sacking, as did the Labor Party. I recall meeting in the Minister's office last year and saying, 'Whether you agree or not, the political facts are that the council is not going to be sacked, let's get on with it, let's get the inquiry going, and we will have a good chance of being able to resolve the matter before the council elections in 1997.' The Minister chose not to follow that path. In fact, we spent a further couple of weeks with the debate going nowhere—there was a great deal of smoke and not much light.

Amendments were moved in the Legislative Council that would have enabled an inquiry to be established immediately and a report to be made. The Government did not take up that opportunity at that stage. The turmoil surrounding the change in Premier at that time probably caused some distraction. I met with the new Premier John Olsen—

The Hon. A.J. Redford: He's a nice bloke, too.

The Hon. M.J. ELLIOTT: He's a bit easier to meet with. I recall that I met with him one or two days before Christmas, and we discussed, among other issues, the Adelaide City Council. I reiterated the Democrats' willingness and preparedness to have the questions about the Adelaide City Council fully scrutinised, and I said that I was keen to have that done as quickly as possible.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Well, we had a good discussion anyway. As January ticked away, I was a bit surprised when nothing happened. On 31 January I had my first meeting with the Minister responsible for the Bill. If my memory serves me correctly, at that meeting with the Minister, Annette Hurley, a member of the other place who was representing the Labor Party, and representatives of the Local Government Association and the Adelaide City Council were also present. We sat around the table and discussed the issues. I thought that we were in a position to make rapid progress. My understanding and that of the others with whom I spoke was that, having talked to our respective Parties or whomever we represented, we would all meet the next week and thrash things out.

However, the next week came and went, as did the week after. The next meeting that I had with the Minister was in the third week of February. That meeting was between me and the Minister. The Minister had had a meeting with Annette Hurley on the day before, but he did not meet with the Adelaide City Council or the LGA at that time. So, 2½ weeks had ticked away with precisely nothing happening. At that point, I said to the Minister, 'This is not good enough, we aren't getting anywhere, something must be put on the table.' Agreement was then reached. The Democrats agreed to make a written submission in terms of how they thought things might progress, and I understand that the Labor Party's representative, Annette Hurley, did the same. Unfortunately, the Minister did not respond in kind.

Several more weeks ticked away, and I spoke with a few members of the Government. The meeting that we thought would take place with everyone around the table then eventuated quite belatedly. At that point, we started to make progress again. The unfortunate thing is that that progress was too late as the council elections were imminent and it was only days away from opening the nominations. In my view, it was too late to put off the election. It was quite plain that a number of people had started to campaign. The Labor Party itself indicated that it was not prepared to support a delay. In those circumstances, in recognition of the fact that the campaign had started and that the Labor Party was opposing a further delay, this legislation was put before us. It will enable the election to take place at the usual time but it will, if necessary, empower the Minister to call an election next year. One would presume that the Minister would choose to do so if there had been a recommendation for substantial change from the inquiry.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Well, that's all very clever to say by interjection. The point I make is that it is not only whether there is substantial change but what that change is. For instance, if the recommendation is to change the composition of the council and to have non-elected representatives—I, personally, have a problem with that—and if that path were followed in legislation and we were looking at a substantial change in the composition of the council, that would be a reason for deciding to have a new election. Alternatively, the recommendation might be that, as the major issue involves planning powers, we will change the planning powers in a small area such as the key commercial areas of

Adelaide. If that happened and if no recommendation were made for substantial change in the composition of the council as distinct from its powers, there would be no justification for calling another election.

The point I make is not about whether there might be substantial change but about what change might be recommended and what change might be legislated for and whether that would justify having another election. I think it would be quite ludicrous to have another election if no substantial change were made to the structure and composition of the council itself. Even just a change in the right to vote or how many votes one person might carry alone would not be sufficient grounds to call an early election; it would have to be in combination with other substantial changes to council.

The Hon. T.G. Roberts interjecting:

The Hon. M.J. ELLIOTT: I do not believe that it would be necessary of itself but perhaps in combination with some other major compositional changes that were recommended it would. So, I do not think that we should say that it is a forgone conclusion that there will be an election next year, but at least anyone who has nominated for council knows that that is a distinct and real possibility.

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

The Hon. M.J. ELLIOTT: That applies to all people who are contemplating running for council this time. I am pleased to see that there has been a resolution. This matter was capable of being resolved last year in a virtually identical form to that which has now been reached except for the fact that that change might have happened for the upcoming election or at least there was an amendment in place, which I think was moved by the Labor Party, which allowed for a three month delay of the elections if necessary. However, that opportunity has come and gone, and we can only face the present reality. I support the second reading.

The Hon. ANNE LEVY: I, too, support the second reading. I wish to make a couple of remarks on this matter. I will not go through the whole history of it, but I suggest that this is an unnecessary piece of legislation. Its only purpose is to ensure that the people who stand for the forthcoming council elections are aware that their term may be for less than the otherwise legislated three years. I would have thought that could be achieved by means other than putting legislation through the Parliament. If changes do result to the council from the review of governance, which has finally been set up by the Government, such changes will have to come back to the Parliament, and obviously the matter will be debated at that stage.

There has been discussion in this Council regarding candidates for the forthcoming City of Adelaide council elections. I wish to comment on this, not in the way that another member has, but I could not help but notice that the current Lord Mayor has announced a slate of nine candidates who will be forming a ticket running for the local government elections. I was absolutely appalled to see that his slate of nine candidates consisted of nine men and not one woman. I would have thought in this day and age that we would no longer have slates of candidates not containing women as part of—

The Hon. L.H. Davis: That's the Labor slate.

The Hon. ANNE LEVY: It is the Labor slate, is it?

The Hon. L.H. Davis: It is.

The Hon. ANNE LEVY: That is very interesting. I am sure all those people would be very interested to know that they are members of the Labor Party, and it is certainly news to me that they have formal support, or any support, from the Labor Party.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: A few weeks ago the Attorney suggested we no longer needed to put into legislation, where a board or committee was being established, that there should be both male and female members of that committee. While I appreciate that the current Attorney would not set up a group without women in it, I felt it was still too early to not formally remind people that both men and women should be included. This slate of nine candidates for the election, consisting of all men, confirms my views that it is far too early to stop legislating for representation of both sexes whenever a group is being considered for any official position. I repeat that I am absolutely appalled that, in this day and age, people would consent to be part of a slate, or panel, or group which contains no women. I cannot imagine that any group—

Members interjecting:

The PRESIDENT: Order! We do not need to revert to yelling in here. There has always been a little bit of interjection and a little bit of byplay, and that adds to the debate in the Chamber. However, I do not think we need to yell.

The Hon. ANNE LEVY: I apologise if I was yelling, but I was trying to be heard above the interjections.

The PRESIDENT: It was hurting my ears.

The Hon. ANNE LEVY: The alternative is to stop while there are interjections, which will delay the proceedings of the House, and today I understand we do not want any unnecessary delays. I cannot imagine that there is any person on that slate who is not aware of the total composition of that slate. No-one would consent to be part of a slate without knowing who else was on it. So, we have those nine people who have consented to be part of a slate of candidates, or panel of candidates, knowingly—

The Hon. Diana Laidlaw: A ticket.

The Hon. ANNE LEVY: Well, a ticket of candidates: and each one of those nine knows that there is no woman as part of that panel. I find this absolutely deplorable, and I hope the residents and ratepayers of the City of Adelaide will take note of that fact and draw their own conclusions.

There is one other matter I wish to make very brief comment on regarding any proposals for the future governance of the City of Adelaide which may come back to this Parliament. I will not be a member of this Parliament at that time, so I will not be able to state my views then. I am, of course, a resident of the City of Adelaide, but while I have this personal interest in the matter my remarks are in no way influenced by this and would be exactly the same whether we were to be considering governance of the City of Adelaide, the City of Marion, the City of Salisbury, or any other local government area within the State.

I have long been a supporter of the principle which used to be expressed as: 'One man, one vote; one vote, one value.' These days that slogan is modified to be: 'One person, one vote; one vote, one value.' I believe that should certainly govern any principles on which any change to the governance of the City of Adelaide is brought before this House. I deplore most strongly any person having more than one vote. I believe that is totally undemocratic. It is people who count in this community; it is people who vote, not pieces of land—in the same way as there used to be regarding this Chamber a view that sheep were important and that people who owned sheep should have votes of greater value than people who did

not enjoy owning sheep. That has gone. We now have for our Parliament one vote, one value and one person, one vote. I would certainly hope that those principles will apply to any future arrangements for the governance not just of the City of Adelaide but for any local government area in this State.

One other comment I wish to make relates to various suggestions which have been floated that, because the City of Adelaide is of importance to all people in the metropolitan area, there should be members elected to the City of Adelaide who are not residents or ratepayers, but that people outside the boundaries of the City of Adelaide should have a say as to members of the council of the City of Adelaide. It seems to me that, if that is a problem, the way to change it is to alter the boundaries of the City of Adelaide. I certainly would not object to the Brisbane situation, where there is one city council which covers most of the metropolitan area.

However, I would object most strongly to any notion that people in Marion, for example—not that I am picking on Marion residents—should have a say in selecting people who will determine the rates which have to be paid by residents of the City of Adelaide unless the residents of the City of Adelaide can also have a say in determining what rates will be paid by the residents of the City of Marion. I believe it is a very important principle that when taxes and rates are to be levied, the people on whom they are going to be levied should be the electors who choose the representatives who will determine those taxes, and that there should be no consideration of the rates and taxes applied to one lot of people by others who are elected by those who will not have to pay those rates and taxes.

This is one of the key principles of democratic government. It was the reason that the House of Commons was formed 800 or 900 years ago, so that people who were going to be taxed had a say in the taxes they were going to be paying and that people who were not going to be paying those taxes would not have a say in the taxes which were going to be paid. I certainly hope that these two key principles will play a part in what is eventually determined by this Parliament for the governance of the City of Adelaide and, indeed, that the Committee of Review, which the Government has established, will itself hold those principles very firmly in considering any recommendations it makes to the Government. I support the second reading.

The Hon. A.J. REDFORD: I support this Bill. I congratulate the Minister in presenting this Bill to this Parliament. I also acknowledge and congratulate the Australian Labor Party (the Opposition) and the Australian Democrats in relation to their support. I make one comment to response to the Hon. Anne Levy. She says that there is no need for this legislation, but one could imagine the howl of outrage if early next year we sought to change the governance following a consultation process and, as part of that, cut short the elected members' term of office. There would be a howl of protest—

The Hon. Anne Levy interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and says that they could have been warned. By whom? By the Executive arm of Government? We all know the attitude in the past towards statements made by the Executive arm of Government in dealing with local government issues. This is the appropriate way to have brought this matter to this Parliament. I note that the Australian Labor Party (by which the honourable member is bound by the pledge at least for a few months) and the Australian Democrats support the Bill.

I was disappointed to hear the Hon. Michael Elliott go on about the process. The fact of the matter is that we are here and all in agreement. I must say that there are occasions when he brings new meaning to the term 'whinger', but the process worked, it achieved a result and one would hope there would be some magnanimous acknowledgment that there was a process that did achieve a result.

I will not go on for the 20 minutes that the Hon. Anne Levy did, but I will say this: I do have a little concern about the process in relation to Adelaide 21. I can understand that there is some degree of trepidation and uncertainty in dealing with the issues arising from the Adelaide 21 Partnership, but I would be of the view that there is no real reason why the Adelaide 21 Partnership process could not continue side by side with—

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: I accept the honourable member's interjection, but I can see no reason why that process cannot continue. As the Hon. Legh Davis has said in this place, on occasions too numerous to recount, the development of the City of Adelaide has been slow, patchy, full of rhetoric and ideas, and lacking in action. We are at a unique time when we can address the City of Adelaide and put people and life back into the place. At the end of the day, as everyone in this place would agree, it is the jewel in the crown of South Australia. I support this Bill and, again, congratulate the Minister for the way in which he managed to bring all the parties together; they are difficult parties not known to get on well with each other—local government, State Government, Opposition and Australian Democrats—to achieve consensus. When one considers our position in November last year we have come a long way,

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their contributions to the Bill and indications of support for the second reading. As the Hon. Mr Holloway indicates, it deals essentially with the issue of elections and provides a discretion for the Government to issue a proclamation to determine that a general election will be held on a particular date between the Saturday falling on or after 2 May 1998 but not later than 5 September 1998. It is discretionary. I suppose one did not need to rush the Bill through both Houses prior to the elections for the city council but, having reached an agreement, the Government took the view that it was important, at least, to bring the matter before the Parliament to ensure that all candidates for city council elections are well forewarned about the prospect of a new election within 12 to 18 months.

So far as the Hon. Anne Levy's contribution is concerned, I only want to make one passing reference as to her observation of what I said a couple of weeks ago about an amendment I moved in relation to membership of the Government board. I was referring to the composition of Government boards and the record of this Government in its commitment to putting women on boards. I do not want people to judge the Government on the performance of bodies outside of Government. Government should be judged by what it does or does not do. I thank honourable members for their contributions.

Bill read a second time and taken through its remaining stages.

ENVIRONMENT PROTECTION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 February. Page 1015.)

The Hon. T.G. ROBERTS: I indicate that the Opposition will be supporting the amendments to the Environment Protection Act 1993 which provide an administrative change in relation to the membership of the authority, which gives power to the Governor to appoint a member of the authority to be a deputy of the authority and which allows that process to take place. It allows for a more open approach to the differing views and opinions that may come from contributors other than people inside the departments. It is a step that, perhaps, should have been put in the original Bill to separate and differentiate the contributions from the department and from departmental officers and from others who are providing advice in a capacity, so that a consensus can be drawn between those people who are charged with the responsibility of providing advice and those who are paid for providing advice. There is a matter of trust in the way in which the structure is set up at the moment, but I think this change will enable more trust and faith to be put in a broader consensus, with perhaps less vested interest coming from the Government's position.

The insertion of new section 120A provides for false reports calling for action by the authority, and I think that that is a timely inclusion. I can think of a couple of instances where either the information provided has been known to be false or the information provided was not complete when the inquiries were taking place, and the EPA would have probably preferred a more honest approach to the witnesses who were providing it: and it provides a Division 5 fine if a person is convicted of an offence against the new section. It will put people on notice so that, if there is a penalty to be paid for not providing evidence or providing false evidence, they will perhaps take their appearances more seriously.

If the Bill was to be amended the Opposition would have liked the inclusion of a few more amendments, in particular provisions for policing breaches of the Act and allowing the inspectorates the required staffing levels to do their jobs properly. I know that the people in the EPA work hard and diligently to try to enable the Act to be policed—

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: That's right—but the number of people in the department does not adequately equip it to be able to carry out the role and responsibilities that one would expect of it in a State the size of South Australia with the growing number of areas in which the environment needs to be protected and policed. I hope that there will be a wider examination of some of the problems that the department is facing and a broader look at the problems that need to be developed with regard to amending the Act or introducing a fresh Bill—and I am not sure of the Government's intention on this but I understand that there are indications that this will occur. The Opposition supports the amendments.

The Hon. M.J. ELLIOTT: The Democrats support the second reading of the Bill. The Environment Protection Act is, for the most part, a good piece of legislation, undermined severely by a lack of resources in particular. It was not that long ago in this place that I raised issues which I think demonstrated the weaknesses in relation to clean air. I made inquiries in relation to the Collex medical waste incinerator in the northern suburbs and I discovered that under its licence conditions it was required to have tests carried out within a 14 month period. Those tests were not carried out and the licence was renewed—in fact, the tests were carried out some two months after the licence was renewed. Having seen those tests, I note that there were supposed to be two testing ports in the chimney. One was so corroded that the testing body could not open it and the other they could open and test but they qualified their report quite heavily saying that the location of it was such that it was not giving readings that could be relied upon. It also was not testing for a number of substances which I think should have been tested for.

I find it quite amazing that what we have here is mandatory testing that is not carried out; that a licence is renewed; and, when the testing is done, on its own admission it is inadequate. The testing is not in any way independently checked by the EPA itself. I raise that by way of example, but I understand that that is the general rule—that testing in this State is a bit of a joke and that on the few occasions when they are to be monitored directly by the EPA the company is always told in advance that it will happen. That makes a farce of the legislation. The Government must ensure that the EPA has adequate resources. I note that our EPA is far worse resourced than any of the other EPAs around Australia.

The Bill addresses some minor issues in relation to the Environment Protection Act. I understand that clause 4 of the Bill inserts a new section 120A, which allows the authority to prosecute a person for making a false report when that person knows the substance of the report to be false. I understand that the amendment was suggested following an incident where a company accused a competitor of contravening the Act in order to gain a commercial advantage, and that a police investigation ensued (and I have more detail that I do not intend to put on the record of this place). There are suggestions concerning the media reports which surrounded the false report; people used connections in the media in a way that I would not have thought the media would have wanted to be used. We always have to be very wary, I suppose, of commercial competitors attempting to use an Act for their own benefit and not for the benefit of the State.

Although the issue has substance, it is worth noting that what we have here is a move to tighten up reporting of offences rather than perhaps tightening up further on offenders. The Government is not, through this action, taking a tough stance on polluters but on reporters of an offence. I must put on the record my concern about the fact that in this Bill the Government is not seeking to make changes to some parts of the Act which clearly need strengthening.

I understand that the South Australian Environmental Defenders Office advised the Minister's office of three issues which it felt should be addressed. I would like to put these issues on the record, although I understand that the EDO is satisfied at this point that the Minister is treating these seriously. We will continue to monitor the progress of these issues and will pick them up again later if need be.

First, the recent Bridgestone leak has raised questions about the reporting of incidents and who should be legally obliged to report them. I understand the EWS was aware of leaking chemicals from underground tanks at Bridgestone about two years prior to the public announcement. However, it is not obliged to report such instances to the EPA. The EDO has suggested making public servants responsible for reporting pollution incidents that come to their attention, but the Minister believes that improved communication between Government agencies is preferable and has begun recent

initiatives in this regard, including increased liaison between the Office of Environment Protection and other agencies.

The EDO still believes that there may be an appropriate role for a system of mandated notifiers, but it is prepared at this stage to wait and see whether the Government's new arrangements adequately deal with the apparent inability of the EPA to detect pollution using its own resources.

Another area of concern about the current laws is a person's right to pollute their own property. Although this defence under section 84(1)(c) went through the community and parliamentary debate unchallenged, I understand that the report by the Advisory Committee on Contaminated Sites is due out shortly and that that would be an appropriate forum in which to have a debate on this issue. I understand the EDO has successfully lobbied the Government for an opportunity to participate in the committee's deliberations. I therefore expect that the Government will address this issue as part of proposals for contaminated lands legislation with the expectation that such legislation will, therefore, deal with current pollution and current criminal liability as well as past pollution and civil liability in relation to clean-up costs, which is usually the main concern of such legislation.

The final issue I wish to raise today deals with the activities required under the Act to be licensed. Schedule 1 of the Act deals with chemical storage and details the amounts of chemicals which must be in storage before a licence is necessary for their storage. There is concern that the current thresholds are too high. I understand that the Government may address this issue in several ways: by amending the regulations or by the provisions of the Dangerous Substances Act. I flag now my interest in the possibility of future amendments if necessary to address this issue.

The Minister has also acknowledged that the schedule will be reviewed with full public consultation. Threshold limits must be based on potential environmental impacts rather than any capacity to administer licences. The Democrats support the second reading.

The Hon. DIANA LAIDLAW (Minister for Transport): I thank members for addressing the Bill and for their support. The Hon. Terry Roberts raised a number of matters, in terms of policing breaches of the Act and staffing levels, and these matters will be subject to the major review by the Minister to be undertaken I suspect this year. The Australian Democrats also raised matters in terms of who will be legally obliged to report to the EPA, and activities that are required to be licensed. I understand that these matters also will be subject to the review.

Further, the Minister has undertaken that he will consult with Opposition Parties in determining the nature of this review and the approach to be taken with various interest groups, major stakeholders, conservation groups for instance, industry and the public. It seems to me that there is considerable goodwill by the Minister in addressing the concerns that have been expressed in this place today, and those concerns should be addressed at least by the end of this year.

Bill read a second time and taken through its remaining stages.

GAS BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 1043.)

The Hon. P. HOLLOWAY: Debate on this Bill provides me with my first opportunity in this Chamber to speak on a subject within my responsibility as shadow Minister for Mines and Energy. First, I place on record my appreciation of the previous shadow Minister, John Quirke. While John Quirke's talents will be missed by the State Opposition, he will considerably boost the strength of the Federal Opposition and this State when he takes up his new role in the Senate.

In many ways, the Gas Bill illustrates the vast evolution of the political and philosophical landscape that has taken place in this country since the 1970s. When natural gas was first exploited as an energy source in 1969, States' rights were paramount and gas discoveries were regarded as a disappointing outcome in the search for oil. The Roma gas fields in Queensland and the more substantial Bass Strait fields in Victoria were jealously regarded as State rather than national resources. The discovery of huge gas resources on the North West Shelf of Western Australia and the onshore gas resources in the Cooper Basin and later the Amadeus Basin in the Northern Territory meant that all mainland States except the largest, New South Wales, had commercial gas resources.

This inevitably gave rise to the concept of a national gas pipeline grid which was popularised by Rex Connor, the Minister for Minerals and Energy in the Whitlam Government. It was during his Ministry that the Commonwealth Pipelines Authority was established and the construction of the Moomba to Sydney pipeline was commenced. It was also the period when the Commonwealth and the States were embroiled in disputes over the control of offshore resources, an issue ultimately resolved in the High Court in favour of the Commonwealth.

Any attempts during this era to achieve a national approach to energy marketing, or just about anything else for that matter, were bitterly rejected by conservatives as centralism or even socialism. Who could ever forget the vehement opposition to the Whitlam and later Hawke Government's referendums in the form of the ubiquitous Canberra octopus?

The Hon. A.J. Redford: How did they go?

The Hon. P. HOLLOWAY: They went down but, as I am saying, there has been an evolution. Unfortunately, parochial State interests affected just about every gas infrastructure investment decision during this period. In other words, they were taken for local interests rather than looked upon as part of a national energy policy. However, the economic case for a national energy market was so overwhelming as to make it inevitable. It was only a matter of how long.

During the late 1970s and early 1980s, the number of economists employed in the Commonwealth Public Service grew from a few hundred to several thousand. This was at a time when the focus of much economic attention turned to the evaluation of economic regulation and the public interest. One result of this has been the increasing exposure of the cost to society of inefficient resource allocation. During this time, the corporate sector also was undergoing a period of mergers and exposure to international competition which, in turn, has brought a more outward looking approach. So, while State parochialism was under sustained attack by all these things, it did not give up without a fight. It is interesting to look back at the Energy 2000 policy review of March 1986 which concluded:

It is apparent that from now on the optimal development of the natural gas industry in Eastern Australia depends on the industry

being considered on an integrated rather than a State by State basis. All new pipeline proposals should be discussed between the Commonwealth and the States.

Even in 1986 discussion of national energy issues was about as far as it went. It went to discussion and not much beyond that. The breakthrough finally came at the COAG meeting in 1991, when the Commonwealth and State Premiers adopted Professor Hilmer's competition policy. This essentially recognised, rather belatedly, that Australia should become one national market rather than seven separate State markets.

Thus, what was yesterday's heresy has become today's religion, and the Gas Bill 1997 could be summed up as 'Hilmer comes to the South Australian gas industry'. The Australian Bureau of Agricultural and Resource Economics recently forecast that natural gas will be Australia's fastest growing source of energy to the year 2010, with an average growth rate of 5.5 per cent over the period. This is double the rate of Australia's forecast energy growth. The report forecast natural gas to supply around 28 per cent of Australia's primary energy needs by 2010, making it Australia's second largest fuel source after oil, overtaking coal for the first time.

However, the Chief Executive of the Australian Gas Association has pointed out that these projections will only become reality if there is rapid progress on the COAG national gas reform program to achieve competition with free and fair energy trade which encourages investment in development projects and pipelines.

While it will be clear from the comments I have just made that I believe the coming of a national gas market and other energy markets is desirable and overdue, there are many issues about the regulation of those markets that need to be carefully considered. It is one thing to agree that Australia should be one national market; it is another to achieve that goal in a fair and efficient way. It is also important that we fully understand both the benefits and the costs of the national gas market for South Australia. The main virtues of a national gas market are that it will allow competition and States will be able to source natural gas across State boundaries. In turn, competition should bring lower consumer prices, and the very real fears that this State held in the mid 1980s that it could not guarantee future natural gas supplies should be a thing of the past. Greater use of natural gas will also bestow environmental benefits through reduced pollution and emissions from alternative fuel sources. The down side for the States is that lower gas prices may mean lower royalties and they will be less able to use energy as a lever in promoting State development.

Until now The Gas Company has monopolised the supply and distribution of natural gas to business and households in the State. As a monopoly and as the only body in the State with expertise in the supply and distribution of gas, the Gas Company essentially set its own standards for gas distribution. Given the good safety record of the gas industry in South Australia, this internal regulation has been a success. However, under a competition regime there will be more than one gas distributor in the future, and adequate and consistent standards are a necessity. We know from hard experience in sectors such as the banking and general aviation industries that price-driven competition can lead to a fall in prudential or safety standards.

As the focus of an industry shifts to the bottom line, while that may bring potential benefits, there is also a temptation to cut corners. Thus this Gas Bill is intended to provide the necessary regulatory framework for a competitive gas industry. Like its companion Bill—the electricity Bill passed through Parliament last year—much of the detail of gas industry regulation, such as the technical and safety standards, will appear in the regulations, and in many ways the real debate on gas reform may be with those regulations.

It is my understanding that the regulations to be proclaimed under this Bill are currently being drafted. It is the regulatory component of this legislation that I wish to address in some detail. There is a long-standing practice in other Parliaments that when major changes to legislation such as this are introduced the accompanying regulations are also provided to Parliament so that the full impact of legislation, including subordinate legislation, can be assessed. It is a sensible practice that ought to be followed in this Parliament. Will the Minister inform the Council, during his response to the second reading debate, what progress has been made in the drafting of these regulations? Are they available and, if so, will they be produced? If they are not available, when will they be circulated for discussion?

Unfortunately, this Government has developed the habit of placing ever more detail into regulations so that many key and controversial issues can be avoided in legislation. I am not specifically referring to the gas or energy industries, but in a large number of other areas we have seen this tendency. Frankly, the Opposition is sick and tired of the way in which this Government uses regulations to bypass parliamentary scrutiny.

Last week, for example, the Legislative Review Committee released a report on the regulations under the electricity Act. I spoke on that matter yesterday because the committee found that there had been inadequate consultation in relation to those regulations. Indeed, they were only sent out for consultation after they were proclaimed, which is hardly good practice. There is no excuse for this to happen in the case of the gas regulations, which are apparently being drafted now, and the Opposition will closely watch Government actions on this matter to ensure that these regulations are circulated widely to all interested groups for consultation before they come into place.

The Opposition is concerned by the way this Government refuses to accept the wishes of this Council when regulations are disallowed. During the term of this Parliament the Opposition has not sought to disallow many regulations because we believe that Governments should, by and large, have a right to govern. In the 18 months that I have been in this Chamber, there have been only two occasions that I can recall when the Opposition has successfully, with the help of the Democrats, disallowed a regulation.

The first case was a measure to reduce from 136 kilolitres to 125 kilolitres the free water allowance for low-income Housing Trust tenants. The second case was the disallowance of certain fish netting regulations, with which I am sure my colleague the Hon. Ron Roberts would be familiar. In both cases, when these regulations were disallowed, the Government immediately reintroduced the same regulations, thereby negating the effect of the disallowance; in other words, the power of this Parliament to effectively scrutinise subordinate legislation was effectively overruled. We have to combine this with the tendency of this Government to put more and more legislation into regulations. This has left the Opposition with little choice: either we accept that this Government uses regulations as a means to avoid accountability for its actions or we ensure that its opportunities to use regulations are limited.

Given the nature of the regulations which are likely to be introduced under this Bill—and they will in fact set safety

standards and they may need to be altered at short notice—we do not intend to demand that the Government incorporate them into the Bill. However, I intend to move to delete the power of the Government to set fees by regulations. If this Government wants to abuse its powers and refuse to accept Parliament's right to disallow regulations, as far as the Opposition is concerned it can set fees within the legislation and seek to amend the Act if it wishes to change fees. So far as fees are concerned, the Government cannot argue that they will need to be changed urgently and so the Government cannot use that argument. I am saying that the Opposition will act responsibly, but we intend to make our point that we believe the use of regulations by the Government is being abused.

There is another argument in relation to the Bill which again relates to a matter of important principle, that is, the way in which the Government increasingly treats freedom of information legislation with contempt. The Gas Bill contains two examples where the Freedom of Information Act is specifically negated. I refer to clause 18(3) and clause 11(3). In both these cases it says that information classified by the technical regulator as confidential is not liable to disclosure under the Freedom of Information Act 1991. I would not argue that information that is provided from gas companies, distributors or suppliers that is confidential should be disclosed. I would not argue that for one moment. However, under the existing Freedom of Information Act there is adequate provision to exempt documents from the freedom of information legislation which are commercial in confidence. Specifically, I refer to schedule 1 of the Freedom of Information Act, 'Documents affecting business affairs', which states:

> A document is an exempt document . . . if it contains matter the disclosure of which would disclose trade secrets of any agency or any other person—

and so on. Anyone who is interested in this matter can look at the provisions in the Freedom of Information Act. The fact is that if a document is rejected under a freedom of information request there is an opportunity to seek an internal review and then, if not happy with that, a person can seek a review from the Ombudsman. Through just negating all reference to the Freedom of Information Act then there is no right for that person to appeal. My concern is that if you have these sorts of provisions in legislation you could have a situation where any document could be classified as confidential, even if it is clearly not confidential, and then there is no means of having that decision assessed. I do not intend to push this matter too hard in this case. I am aware that the companion Electricity Bill has similar provisions and I accept that by and large most of the information that is likely to be given to the technical regulator is likely to be commercial information which generally we would not expect to be disclosed. Certainly, I am concerned at the precedent that is increasingly being set by the Government to disallow the operation of the Freedom of Information Act. I would like from the Minister at least a comment in relation to this matter.

During the debate in the House of Assembly my colleague John Quirke asked a question about the impact of this Bill on LPG and motor vehicles and the Minister for Energy undertook to obtain information on this matter but I am not aware it has been provided. I ask the Minister, during his response, to answer that question. I will ask questions during the Committee stages about some clauses. I support the Bill.

The Hon. SANDRA KANCK: At least for me, this Bill is the third in a series. The first one I had to deal with was the sell-off of the pipeline and preparation for sale Bills back in 1995. That created a considerable amount of angst for me at the time and members may recall that I had an amendment on file that caused this place to go into a flurry because it was regarded as being anti-competitive. I thought it was a terribly sensible provision which ensured the supply of gas to South Australian consumers would be the first and foremost concern of anyone who took over that pipeline. There was a very hastily convened meeting just outside this Chamber, across the way in the interview room, with lots of people there to heavy and convince me that I should not proceed with it and in the circumstances, given that the Government was already a signatory to competition policy, I did not have much choice. If I go back in history before I became a member of Parliament, I would have had even more upset at the time the previous Labor Government sold off the Gas Company. What we have now by comparison is really small bikkies, although it is a reasonably large Bill of 95 clauses. It is more of a housekeeping and safety Bill.

The Hon. R.R. Roberts: We sold our share.

The Hon. SANDRA KANCK: We certainly did sell our share in the Gas Company. When I say 'we', I mean South Australians did by courtesy of the Labor Government of which the Hon. Ron Roberts was a member. I was unhappy about that. This is a more local matter and really deals with what happens to the gas once it has hit metropolitan Adelaide and does not cause me the same degree of concern. I understand that we will be having a fourth Bill in the series in the form of the access Bill and, in Committee, I might ask a question about the timing of it and when we can expect it. I support the Bill.

The Hon. J.C. IRWIN secured the adjournment of the debate.

[Sitting suspended from 1.2 to 2.15 p.m.]

EXCHANGE STUDENTS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a ministerial statement from the Minister for Employment, Training and Further Education in another place on the subject of a major trade and education agreement.

Leave granted.

HARDY, Ms B.

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement from the Minister for Primary Industries in another place in relation to Barbara Hardy and Landcare.

Leave granted.

FLOODS

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement from the Minister for Primary Industries in another place on the subject of a cheque for flood assistance.

Leave granted.

ADELAIDE AIRPORT

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to make a ministerial statement.

Leave granted.

The Hon. DIANA LAIDLAW: Yesterday's approval of Adelaide Airport's runway extension by the Federal Public Works Committee follows similar approval given by the State Public Works Committee in February 1997 and the release last month of State and Federal environmental impact statements. I would like to provide an outline of the current capital works program for completion of this project. That is now possible following the abovementioned approvals.

As we are aware, this Government has provided up to $20 million to start this project—funding to be refunded by the Federal Government once the airport is leased or by 30 June 1998, whichever comes soonest. Work is progressing well on three fronts, with $6.85 million of State funds already spent by the end of February 1997. The contract has been let for the excavation of the Patawalonga Creek and its refill with structurally sound material. This will be completed by June 1997. Work will include the removal of sediment from the creek bed, estimated to be between two and three metres deep. Materials taken from the creek will be taken to a special drying site on Adelaide Airport land, then, once dry, returned to the creek to fill less critical areas of the excavation. The returned material will then be covered to a minimum depth of half a metre with clean fill, top soil and revegetated.

At this very moment, the Department of Transport is evaluating tenders for the main bulk of the diversion road between the airport and the South Patawalonga Golf Course, which will become the new permanent, rerouted Tapleys Hill Road. This contract will be let early next month, with the new road available for use by August 1997, and it is expected to be completed by November 1997. This road does not divide the grounds of the Glenelg Baseball Club, as an article in the *Advertiser* suggested today because, during the EIS process, the alignment of the road was moved to the east thus avoiding the baseball club grounds.

Similarly, work on the golf course is proceeding well with the formation of tees, greens and fairways, and the installation of irrigation equipment is well under way. Grassing of the tees and greens is in progress, and construction work is expected to be completed by 12 May 1997. The old Sturt River Bridge on Tapleys Hill Road will be replaced by a new bridge on the new diversion road. Tenders will be called in April with letting of the contract scheduled for May and work to be completed this December.

The Federal Airports Corporation has called for registrations of interest for the 572 metre runway extension and, now that Federal Parliament has approved this project, the FAC will be able to call tenders for this work. I anticipate that that will happen very quickly. June 1998 is the target for the completed and operational runway extension, with taxiway works to be finished by November 1998. Freight and passenger planes will be able to take advantage of the extended runway from June 1998, enabling exporters to utilise fully laden aircraft to maximise freight and tourism opportunities in Asia. Aircraft requiring the extended runway during June to November next year will both taxi and turn on the runway while the extended taxiway is being completed.

The runway extension and road diversion works net present value on estimated capital works of $48 million equates to a benefit cost ratio of 1:63. This means that for every dollar spent the economic return back to our State's economy is $1.63. The entire project is scheduled to be completed and operational by the end of 1998.

QUESTION TIME

SCHOOLS, NON-GOVERNMENT

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 Federal Government's new schools policy.

Leave granted.

The Hon. CAROLYN PICKLES: The Federal Minister for Education has announced a new free market approach to the establishment of non-government schools. This change of direction federally will abolish limits on the number of schools established, the previous restrictions on the level of funding to private schools will be lifted, and restrictions on the minimum and maximum number of enrolments for private schools will also be done away with. The overall result in South Australia could be the transfer of thousands of students from public schools to private schools. Federal funding for State schools is calculated according to a formula called the Enrolment Benchmark Adjustment (EBA), and this will be affected by this new policy for non-government schools.

In his evidence to the inquiry by the Senate Committee into Private and Commercial Funding Aspects of Government Schools on 31 January 1997, the Chief Executive Officer of the Department for Education and Children's Services expressed concern at this change of policy. He said specifically:

> We are concerned about the proliferation that could occur of a raft of small independent schools. That could impact on the EBA [Enrolment Benchmark Adjustment]. We do not believe that that would be in the best interests of either Government or non-government schools.

In his media release, the Minister made it quite clear that he would not allow a completely free market for the establishment of new non-government schools in South Australia—and the Opposition welcomes that statement. He has also responded by saying that there will be a new policy in South Australia 'which will provide some planning and registration for the expansion and establishment of non-government schools in South Australia.' My questions are:

1. What are the details of the Minister's policy in relation to restrictions on the number of non-government schools?

2. Does the Minister believe that the Federal Liberal Government's unrestricted policy on the establishment of non-government schools will lead to leakage of enrolments from State Government schools which could, in turn, lead to the closure of more Government schools?

3. What is the Minister's view of the abolition of minimum enrolments in non-government schools for funding purposes, given the Minister's policy of closing small Government schools?

4. What recommendations has the Minister made to the Federal Minister for Education in respect of capital funding for non-government schools in the Federal 1996-97 budget; what allocations have been made and to which schools?

The Minister may wish to take some of those questions on notice. I would be happy to receive those answers later.

The Hon. R.I. LUCAS: The first point that needs to be made when one talks about the potential impact of the abolition of the new schools policy—as the honourable member has highlighted, that, potentially, some thousands of

students might move from Government schools to non-Government schools—is that even under the previous Labor Government's new schools policy there was a very significant movement of many thousands of students nationally from Government schools to non-Government schools. So, it is not a policy decision between—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: It is not a question of whether you encourage, it is the reality of what happens. And it is not a comparison of black and white. Under the new schools policy that existed for many years, there has been a very significant shift, because of parent choice, from Government schools to non-Government schools nationally. Therefore, the abolition of the new schools policy needs to be seen in that light. It is not a question that the old new schools policy stopped everyone in Government schools or prevented anyone in Government schools from moving to non-Government schools: it did not. I believe that during the past 10 or 15 years under Labor Governments nationally and at the State level we have seen a significant shift.

It was not too long ago in South Australia that the percentage of students in non-Government schools in South Australia was of the order of 20 per cent, or perhaps just a little over 20 per cent. That figure, under the new schools policy, under the Labor Governments both State and Federal, obviously with some encouragement from those Governments, has moved from that figure of just over 20 per cent to closer to the national figure of 27 and 28 per cent of the total system. The overwhelming number of students continue to be educated in our excellent Government schools in South Australia, and more than 70 per cent of our students are educated in our Government school system. It is a bit different in some of the other States. In Victoria, I believe the percentage in the non-Government school system is higher, at about 33 per cent. New South Wales is higher than in South Australia. South Australia's figure is one of the lower figures, in terms of percentage educated in the non-Government school system.

The Government's position all along has been that there ought to be freedom of choice for parents and freedom of choice for families and that we ought to have quality schooling available for families in the Government system and in the non-Government system from which they can then make their own choices. The Government has indicated it believes that the Commonwealth Government's decision for the complete abolition of the new schools policy and a completely free market approach is not one that the State Government supports. We believe the old policy was too restrictive. However, we believe that swinging the pendulum right through to the other end of the continuum with a completely free market is not acceptable either, and we believe that there needs to be some sort of balance or compromise somewhere in the middle.

This Government likes to have consultations before decisions are made: we do not like to rush into these things without having properly considered them. We have had a whole series of discussions with just about every interested group, including the three statutory and advisory committees and bodies which provide advice to the Government on non-Government school matters and parent associations and representatives, both Government and non-Government. At my regular meeting with the Australian Education Union—at which I speak frequently—this was an issue that was discussed at some length to ascertain the attitude of the AEU. The five main principals groups met with me on two or three separate occasions, where we canvassed a range of issues, and this was a particular issue that they raised with me. There were also a number of different proponents of new non-Government schools and a number of the advisory groups that exist within the non-Government schools system—and the list goes on. All of them have a particular perspective which they wanted to put to me, as the Minister representing the Government, and they have all had that opportunity to do so, and they continue to have that opportunity.

We have now put all that together and some two or three weeks ago we started trying to piece together what might be the final package that the Government would seek to implement. We are taking legal advice. Obviously, it will be important in relation to the sustainability of any particular package of proposals that the State Government has. There are a number of vexed issues there: the nexus between State and Commonwealth funding, the issue of when an application for a new school or an expanded school was made; the issue of the minimum enrolment limits, for example; the issue of impact on other Government and non-Government schools are all important issues that we are seeking to try to find a balance for.

If I could broadly categorise it, I believe that the current Government thinking, in terms of trying to strike a reasonable balance, is broadly supported by the major non-Government representative authorities in South Australia. It is true to say that there is a not insignificant minority of non-Government schools which strongly support the Commonwealth Government's position of abolition of the new schools policy and would like to see a free market, but the mainstream and majority view is supportive of the State Government's ballpark position. They are not going to sign off on the detail, obviously, until they have had a chance to see the detail. It may well be that you cannot please everyone—which I am sure will be the case—and that some of those particular interest groups or authorities may well have preferred something different from what the Government eventually decides.

The timing is imperative. I hope that, in the not too distant future, subject to final resolution of legal advice and final resolution of some transitional issues, to be in a position on behalf of the Government to indicate, at the very least, how we are going to manage and negotiate the process for 1997. The Government is leaving the option open of being able to manage the process for 1997, seeing whether that process works in 1997 and, if it needs finetuning, looking at a finetuned arrangement to take effect from 1988 onwards.

As to the honourable member's questions in relation to minimum enrolments, I indicate that, perhaps unlike the Victorian Government, the South Australian Government continues to maintain dozens—perhaps hundreds—of schools of a very small size of 50 students or less. The Government has not taken a view that there is some magic figure below which all schools must be closed. We maintain, in many country areas and in some areas of the city, a large number of schools with very small enrolments. The Government has taken the position; it is not ideologically driven that there is some magic number below which we cannot go. We know that was the accusation made by the Labor Party during the last election, that all schools under 300 would be closed and that the Government was going to close down 60 per cent of all schools in South Australia. The Hon. Terry Cameron—who is not with us today of course—found himself in considerable strife for having peddled that particular piece of mischief.

The Hon. Diana Laidlaw: Taken to court, wasn't he?

The Hon. R.I. LUCAS: Taken to court; found guilty on his record.

The Hon. L.H. Davis interjecting:

The Hon. T.G. Roberts: I do not think so, no. The Hon. Terry Cameron, I suspect, will never be found innocent.

The Hon. Diana Laidlaw: Not even by his colleagues.

The Hon. R.I. LUCAS: Not even by his colleagues, I suspect.

The Hon. L.H. Davis: He is not planning a leadership coup. He said so!

The PRESIDENT: Order! We are getting off the track.

The Hon. R.I. LUCAS: The Government was accused of that particular policy position; it rejected it at the time. Its policy record has demonstrated that is not driven by such a policy direction—

The Hon. L.H. Davis: And all schoolchildren, irrespective of where they are, will still be able to have holidays at the right time in the year 2000.

The Hon. R.I. LUCAS: That as well. So, there is not a position in South Australia where the State Government can be accused of having a policy direction where it closes down all small schools and yet allowing small non-Government schools to establish. We continue to allow small Government schools, we continue to allow small non-Government schools, and we think that is an eminently fair proposition.

The last point I make is that in any policy direction in relation to choice between Government and non-Government schooling, if a Government or an education department or people interested in education believe that they can protect what they want to protect, and we all want to protect, which is quality Government schooling, by erecting a prison wall around the Government school system, then they have another think coming.

The previous Labor Government tried to do that with the new schools policy, but it did not work. It can be part of a package, but it did not work. The community has to look at the reasons why parents are choosing to move from Government to non-Government schools and we must change and adapt our system. We must introduce and maintain basic skills tests. We have to look at issues of discipline and behaviour management. All these areas are areas where the Government in South Australia is seeking to make change, even though we are trenchantly opposed by the Labor Party and the leaders of the Teachers Union when we try to introduce those notions of assessment, measurement and standards which are evidenced by the introduction of the basic skills tests into our Government schools in South Australia.

The Hon. CAROLYN PICKLES: I have a supplementary question. I asked the Minister a question about budgetary matters. Will he take that on notice and bring back a reply?

The Hon. R.I. LUCAS: I will take it on notice but, in relation to Commonwealth funding and budget decisions, I will not be in a position to indicate what is in the coming Commonwealth budget in relation to capital works until it is released; but if there is any detail of a preliminary nature that I am able to provide then I will seek to do so.

The Hon. T.G. ROBERTS: I have a supplementary question. In relation to the current Government policy of sharing facilities, is the Government considering leasing part or all of some existing public, Government owned schools to private education providers?

The Hon. R.I. LUCAS: Not to my knowledge. Some propositions may be put to me in relation to leasing but the Government's position has been firm. If we declare part or all of school properties surplus, we are more interested in the sale of those properties. We are not much interested in long-term leasing arrangements. Playford High School, which was closed down by a previous Labor Government, has a lease or rental arrangement with a skills centre which has been in place for quite some time, but as a Government policy position our preference is for sale of assets so that we can use the money to the benefit of other students in schools in South Australia—

The Hon. Diana Laidlaw: It is reinvested into other schools, is it?

The Hon. R.I. LUCAS: It is always reinvested into other schools—rather than long-term lease arrangements for those properties.

MEMBERS' CONDUCT

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question concerning conduct of members of Parliament and intimidation of members of the public.

Leave granted.

The Hon. R.R. ROBERTS: The Opposition has been contacted by a Mr Paul Brock who works for the Employers Chamber in Port Augusta and surrounding areas. He has recently written a letter to the Editor of the local newspaper which was published. The letter criticised the member for Eyre with respect to a local electoral issue. I believe that the subject was Teletrack, and I am told that for months people were attempting via the print and electronic media and by direct contact to get Mr Gunn to respond to questions on his position in regard to Teletrack and what he was doing about it. He continued to remain conspicuously silent. Mr Brock's letter, though provocative, achieved the desired result by Mr Gunn responding with a reply the following week. Mr Brock has been cautioned by his employer and, in response, Mr Brock has had to write to his employer justifying his freedom of expression in his personal capacity. This is a very long and fully explanatory letter. I understand that the Attorney-General is generally cautious about these matters, but I have a copy of the correspondence. As it is lengthy and I would like the Attorney-General to go right through it, I seek leave to table a copy of the letter.

Leave granted.

The Hon. A.J. Redford: Is it a defamatory letter?

The Hon. R.R. ROBERTS: No, I do not know that it is a defamatory letter. Mr Brock alleges that the member for Eyre contacted his employer and urged that Mr Brock be disciplined or even sacked. I will understand if the Attorney-General requests time to consider the matter, but I point out that this is the last day on which questions can be asked. I believe that any constituent has the right, when dealing with a member of Parliament to have some protection and for that reason my question is: is it consistent with conduct expected of MPs in this Government or any Government to have an MP contact an employer to ensure that a worker is disciplined for publicly criticising a member of the Parliament?

The Hon. M.J. Elliott: He was not the only one, either; there were others.

The Hon. K.T. GRIFFIN: I cannot give a response on the matter. My understanding is that there are issues of defamation in respect of the letter, and there is a question of whether the letter on the South Australian Employers

Chamber of Commerce and Industry letterhead was an authorised use of the paper.

The Hon. L.H. Davis: Did you make an inquiry about that, Ron? Did you find out whether it was an authorised use of the letterhead?

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis: Did you take the trouble to check that out?

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: All that I can do is take the question on notice. I will see whether it is possible to bring back a reply in due course.

ESSENTIAL OILS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for the Environment and Natural Resources, a question about environmental jobs.

Leave granted.

The Hon. T.G. ROBERTS: Yesterday, the Hon. Ron Roberts raised a question in relation to law and order in the Port Augusta area, and I believe that there was a bipartisan approach to that question and answer. I thought it was quite constructive dialogue to try to find answers to employment problems, particularly in regional and isolated areas. There is a growing use of essential oils—that some members of the Council might be availing themselves of—for aromatherapy, pharmaceutical, health and lifestyle reasons. It is quite obvious that there is a growing market in which Australia and South Australia could be involved. Many oils could be extracted from plants grown in our regional areas and could add to the number and volume of oils that are available.

It appears to me that the northern regions around Port Augusta would probably make a good regional area for experimentation which would create jobs, particularly for young people. My question is: will the Government provide encouragement and assistance to isolated communities in regional areas and even the outer metropolitan areas where land is available to involve themselves in essential oil production (many of these oils have to be refined as well) for health, lifestyle and pharmaceutical purposes, with a special emphasis on providing jobs for young people, particularly in isolated areas for young Aboriginal people?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister and bring back a reply.

AUSTRALIAN NATIONAL

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport a question about the proposed sale of Australian National.

Leave granted.

The Hon. SANDRA KANCK: Yesterday, advertisements were run in the national press calling for expressions of interest in the sale of Australian National and, for the purposes of the sale, AN is to be divided into three components—Tasrail, Passenger Rail and SA Rail. The sale will be handled by the Commonwealth Office of Asset Sales and Deutsche Morgan Grenfell. The expressions of interest are to be lodged by 10 April 1997 and it is hoped the sale will be completed by 30 June this year.

The wording of the advertisement is intriguing. Tasrail is described as a fully integrated rail operator and the description of its assets include 'track infrastructure'. SA Rail is also described as a fully integrated rail operator but its description of its assets makes no mention of the track infrastructure. Given that a fully integrated rail operation is one in which the operator controls everything from the track up, the discrepancy suggests that certain decisions regarding SA Rail's track infrastructure have already been made. The issue of who controls the track infrastructure and how they manage that task will be crucial to the long-term viability of South Australia's interstate rail system. My questions are:

1. Has the South Australian Government entered into negotiations with the Federal Government to transfer ownership of South Australia's intrastate track to the State Government?

2. What is the Minister's preferred position with respect to ownership of South Australia's intrastate rail tracks?

3. Does South Australia continue to own the land on which interstate tracks are laid?

4. Will Acts of Federal and State Parliament be required before the sale of the South Australian component of Australian National?

The Hon. DIANA LAIDLAW: I state very clearly that the State Government is keeping its options open on these questions, and the Federal Government has agreed to that position. Depending on the expressions of interest and the bids, while the track may be available it also may be in the State's interest in some or all instances that that track remain with the State. It may not be in our interests at all that the track and land stay in the State's interest. What we are doing is making sure that all the options will be available in terms of the assessment of the bids, and so not determining that now and limiting options that would be judged in the State's best interest. So, no option has been ruled out at the present time. That is the position we have sought and that is the position that the Federal Government has agreed to.

The honourable member asked, in about question No. 3, whether South Australia continues to own the land. We do not own the land now but it is an option that the land be returned to the State in terms of State ownership. Some options have suggested that the land track and other assets be sold. The preferred position is to keep the land in State hands. One of the positions being considered is ownership of the track and leasing that out or ownership of the track by some other party. All the options are open. What we have secured with Minister Fahey is that we are involved in the discussions and assessments that are going to be made.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Yes, all the infrastructure is available for sale in terms of an integrated system. We have not wiped off the possibility that there will be a bidder interested in the Wolseley-Mount Gambier line. There is no reason to exclude that or to make judgments about that line at this stage, although the former Federal Labor Government certainly did so.

In relation to whether an Act of Parliament will be required, it will involve both Federal and State Acts of Parliament, unless the Federal Government became particularly difficult and decided that we were frustrating the system, or whatever. I suppose it could decide to keep Australian National as a shell and work around the asset and not change the Acts, but it is not my understanding that the Federal Government would contemplate such a path because we have

been working together to make sure that we get the best deal for rail assets and rail jobs.

The Hon. SANDRA KANCK: As a supplementary question, under what circumstances does the Minister consider that it might be in South Australia's best interests to sell off the rail infrastructure?

The Hon. DIANA LAIDLAW: I have not seen the bids.

The Hon. T. CROTHERS: As a supplementary question, the Minister has said that the State Government intends to keep its options open as to whether or not it will keep holding rights of railway way under its own wing. Has that thinking anything to do with the potential development in the not so far distant future of an Adelaide to Darwin rail link? If it has and that eventuates, what will be the position of the track maintenance, both old and new, given that the Port Augusta workshops are about to be included in the calling of expressions of interest relative to the sale to a private authority?

The Hon. DIANA LAIDLAW: If I understand the impact of the question, the honourable member is suggesting a relationship between the sale of AN and the bipartisan push for the Alice Springs to Darwin railway, and that is why we have been pushing so hard in terms of negotiations with the Federal Government and in setting up the structures for Alice Springs to Darwin, because we believe very strongly that bidders should be aware that this Government is totally committed to the Alice Springs to Darwin railway, that we have the structures to support unencumbered land purchases and titles so that they can then seriously consider investment proposals.

I made this point yesterday with regard to the Alice Springs to Darwin Railway Bill: investment from the private sector cannot be explored fully or seriously unless they know that we are also serious, and that means that we have got the land corridor there ready for the project to start because we do not want a whole lot of unresolved title issues which would mean that the project could be extended for years. So we pushed hard for the Alice Springs to Darwin railway to get those matters cleared up, so that any bidder in terms of AN knows that we are serious about that and about their prospect for further investment and further work with the workshops and generally with maintenance and investment in the rail system over all. We see the two as important to link to get the best advantage for rail in this State.

The Hon. T. CROTHERS: As a further supplementary question, there is a question the Minister has not answered yet relating to track maintenance. I asked the question in the light of a statement by the Federal Government that, to facilitate the Adelaide to Darwin rail link, it will hand over the Terowie to Peterborough line to us. In what way will the Government move should the Adelaide to Darwin rail link become a real thing with respect to track maintenance now that the Port Augusta depot is up for sale to private industry?

The Hon. DIANA LAIDLAW: It is hypothetical in a sense, because we do not yet have the Alice Springs to Darwin railway, but certainly track maintenance is an important issue and would be a part of the negotiations, if it is the interstate line to which the member is referring. The Terowie line is an interstate line, and that is not for sale: that will continue to be part of track access authority, and the Federal Government authority will be making the decisions about access rates and maintenance. It is the interstate lines that are available for sale, and those track maintenance issues will be part of the negotiations. Many of the lines have been run down, and we want to see them upgraded; and there is work in upgrading such infrastructure.

INTERNET GAMBLING

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General a question about Internet gambling.

Leave granted.

The Hon. L.H. DAVIS: In recent months some publicity has been given to Internet gambling. An estimated 600 000 Australians already are connected to the Internet. International gambling authorities have expressed concern about the possible implications to Governments with respect to the growth of Internet gambling. Late last year, Mr Steve Toneguzzo told the National Association of Gambling Studies conference in Australia that the number of Internet users worldwide could reach one billion by the year 2000. He expressed concern that offshore Internet gaming operators were not bound by probity or licensing requirements; they had no age or credit betting restrictions; there was no requirement to submit their software to Government for testing; and they paid no taxes.

Mr Toneguzzo, who apparently has advised Australian Governments, at both Commonwealth and State level, on the regulation of the industry, told this national gambling conference that Internet gambling was bypassing all the regulatory restraints and left punters extremely vulnerable to unscrupulous operators. He also made the point that it could lead to under age and problem gambling as online betting became more accessible and certainly could flow to a loss of revenue for State Governments. He also argued that in Australia, where the use of new technology was taken up by people at a much higher rate than in most other Western countries, Internet gambling could catch on very quickly.

He also argued that, to the extent to which Internet gambling would cannibalise existing markets, it would hurt them. Instead of buying a lottery ticket at a corner store, you could now perhaps buy a lottery ticket by dialling in and finding that the odds in Bolivia were better than those at the corner store. He said that the new technologies also could create opportunities for cyber crime and, with the use of encrypted digitised currency transactions, that crime money could be laundered using Internet gambling without trace. So, it was a haven for illegal gambling and organised crime.

Last week at an Australasian casinos and gaming conference, a Mr Peter Demos, President of World Wide Web Casinos, announced that a United States company is set to launch the world's biggest Internet casinos which will allow gamblers to bet from home using their credit card. World Wide Web Casinos are based in Orange County, California, and will offer punters a variety of games with a maximum bet of $25. Mr Demos told this conference last week that the United States Congress was again submitting a Bill—which apparently was defeated last year—which could result on people gambling on the Internet being fined $5 000, having their computer confiscated and possibly facing a 90 day gaol term. These are important issues which affect all Governments and could have adverse implications in a social sense for the community. My questions are:

1. Can the Attorney-General advise the Council of his views on these important matters?

2. Is he in a position to say whether State Attorneys-General have discussed the implications of the development

of Internet gambling and the possibilities of cyber crime, under age gambling and the loss of revenue to Governments?

The Hon. K.T. GRIFFIN: So far as the Standing Committee of Attorneys-General is concerned, we have certainly discussed issues about the Internet, more related to pornography and particularly child pornography. There is in fact a proposition as a result of a Federal Government inquiry, I think through the Australian Broadcasting Authority, that proposes to develop legislation federally that will deal with online service providers, with the States being left to deal with the regulation of content providers for online information services. That is something which we considered last week at the Standing Committee of Attorneys-General. Generally there was agreement in relation to it, and it is an issue that is now to be further developed.

What issues apply in relation to online service providers in the area of pornography also have ramifications in relation to such things as gambling, as well as to so-called cyber crime generally. The issues are similar. It is a question of how you can enact legislation which will have sufficient bite as well as application to be able to prosecute where there is a breach of the legislation.

I think Treasurers have given some consideration to the issue of gambling on the Internet. It is an issue of quite significant importance, not just from the revenue perspective but also from the perspective of protection of members of the public. There are, as the Hon. Legh Davis says, no guarantees about the rules, the quality, the odds or the guarantee of payment if you happen to win. So, there are some significant issues there.

The State law is most likely inadequate to deal with those issues if Governments around Australia wish to seek to place more regulation upon those who want to use the Internet for the purpose of gambling. So, there would have to be a significant change in the law of the States and Territories of Australia, and probably of the Commonwealth, too, to be able to adequately deal with that matter.

Quite obviously, the other problem is how you trace the source. It is all very well to trace the source in the context of a locally based online service provider and content provider, but if it comes from the United States or some other country, particularly a country where there is not the same rigid application of the criminal law as in the United States, there are significant problems about how that regulation can occur.

So, Governments around Australia are giving attention to the issues which the use of online services, particularly the Internet, will raise. There are no easy solutions to it, but I can assure members that the issue is being closely examined. I would expect both the Standing Committee of Attorneys and an online council of Ministers, which comprises Ministers from around Australia in relation to online communication, will be able to develop policies more effectively for the future.

SELF DEFENCE

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement about self-defence.

Leave granted.

The Hon. K.T. GRIFFIN: Many issues related to crime and justice provoke extreme emotions in the community—sometimes with justification—but few have created such confusion and outrage as self-defence. Much recent confusion and outrage is a direct result of one person's blatant misrepresentation of the facts and the law in order to gain some political mileage.

The Hon. Diana Laidlaw: The shadow Minister.

The Hon. K.T. GRIFFIN: The shadow Minister. It has resulted in unnecessary fear and resentment. I want to set the record straight. A number of matters have been grossly misrepresented by the member for Spence during the debate—

The Hon. Diana Laidlaw: Do you think it is because he doesn't understand?

The Hon. K.T. GRIFFIN: I still do not think he understands. A number of matters were grossly misrepresented by the member for Spence during the debate on the Self Defence Bill in the House of Assembly in the evening of Tuesday 18 March 1997. Mr Atkinson says that the Government Bill puts the burden on the defendant. He says the accused must offer evidence that makes the plea believable, and once he or she does this it is for the prosecution to prove beyond reasonable doubt that the accused did not act in self-defence. This explanation is wrong on two grounds. First, the defendant need only raise a reasonable doubt on the self-defence issue. Secondly, it is implied that the Government Bill changes the burden of proof. It does not—and I stress that. The burden of proof remains unchanged by the Government's Bill and it is that the burden is on the prosecution to disprove the defence beyond a reasonable doubt once the defendant raises the defence.

Mr Atkinson says that I have the authority to direct the Director of Public Prosecutions. While the Attorney-General has the theoretical power to intervene in a particular case subject to parliamentary scrutiny, that power cannot and must not be viewed in isolation from the specific direction by Parliament that the DPP is entirely independent of direction or control by the Crown or any Minister or officer of the Crown. This specific and powerful statement would be nonsense if the Attorney-General interfered with the DPP in any individual case where he or she happened to disagree. It must be used in isolated and extraordinary cases only. That convention existed and was observed by the Labor Attorney-General who issued general guidelines but issued no directions in relation to an individual case at all.

Mr Atkinson says that the legal profession, legal academics and the judiciary did not want Mr Kingsley Foreman acquitted of murder. This assertion suggests a conspiracy by all of the above. Of course the Bill and the demand for it predated Mr Foreman. The conspiracy theory is a nonsense. Mr Atkinson complains that the legal profession, legal academics and the judiciary—the conspirators in other words—did not have the common decency to share their thoughts with the Opposition. The answer is that we in Government asked them. Further, it is, to say the least, hard to complain that they did not comment to the Opposition about amendments produced by the Opposition at the very last minute after the Bill had been in the Parliament for months. Did Mr Atkinson seek their views? The answer is 'No'. Mr Atkinson quotes the select committee as follows:

> There are a number of persons in the community who believe that the law is harsher in its application to those who forcibly resist, for example, a burglar or attempted burglary than on the burglar himself.

What is not quoted is what the committee went on to say, namely:

> Some concerns of the community are understandable, although it is regrettable that much of the concern is quite clearly based on a misunderstanding of the law.

Mr Atkinson claims that I am inconsistent and says that immediately after the 1989 election I brought in a private member's Bill on self-defence that looks much like the law as Mr Atkinson would like it to be. I did introduce a Bill and the test proposed then is the one I support now. I direct the member for Spence to *Hansard* of 5 September 1990, Legislative Council, page 673, two-thirds of the way down the right hand column. He will see how consistent I have been over the years.

Mr Atkinson says that I have not been telling the Liberal Party room the true position of the Labor Opposition on this Bill. This is totally untrue. In any event it is not for me to tell anybody what the Labor Opposition believes, but I will not hesitate to face up to the ALP publicly on each occasion it is wrong and it is on this occasion. Mr Atkinson says that the State is no longer in any position to protect citizens from burglars and they should feel that they can take matters into their own hands. This is virtually a call for vigilantism. He is plainly wrong. Mr Atkinson continues to attack me, members of the legal profession and so-called bureaucrats, and implies nepotism on my part. I will not dignify his comments with a response to this. They are outrageous and have no basis in fact. They are the ravings of a man who cannot accept that he is wrong and has become obsessed with trying to prove that everyone else is wrong and he is right.

The Hon. Diana Laidlaw: He's misleading his Party room.

The Hon. K.T. GRIFFIN: Maybe he is misleading his Caucus room, but I do not know what goes on within the Labor Party Caucus. I do not really care what goes on within the Labor Party Caucus. Whilst Mr Atkinson pursues his obsession he can have little time for his electorate.

Members interjecting:

The PRESIDENT: Order! The Attorney-General is quite adept at giving his own reports and does not need help from the backbench.

The Hon. K.T. GRIFFIN: I now turn to the worst misrepresentation of this long and sorry list. Despite seemingly endless explanations to the contrary, Mr Atkinson continues to assert to Parliament and the public that the Government's Bill means that people have to defend themselves in a way—and I quote his media release—'that is strictly reasonable and proportionate'. This is simply not true. The Bill is quite clear on this issue. It says that the situation must be assessed 'according to the genuine belief of the defendant'. It also says that the degree of force used must be reasonably proportionate to the threat that the defendant genuinely believed to exist. What does Mr Atkinson say to this? I quote from a letter he sent to members of Parliament, as follows:

> Do not take much notice of the subordinate clause 'in the circumstances as the defendant genuinely believed them to be'.

He says that once an objective test is reintroduced, namely, a test of reasonableness or reasonable proportion, the genuine belief clause is window dressing. Do not take much notice: that means just ignore inconvenient facts. Facts are facts, however inconvenient. I have received advice from the Director of Public Prosecutions in relation to the Albert Geisler case to which the member for Spence constantly refers. If the new law were in place at the time Mr Geisler shot the man who entered his home, Mr Rofe's decision not to prosecute would be exactly the same. I seek leave to table advice from the Director of Public Prosecutions.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order, the Hon. Mr Davis!

The Hon. Anne Levy interjecting:

The PRESIDENT: Order! Is it not at all possible to have a little order in this Chamber? I am not talking to myself, but some of you will be if I put you outside.

Leave granted.

The Hon. K.T. GRIFFIN: That should put paid to Mr Atkinson's assertion to the contrary.

The Hon. L.H. Davis: Is it true that he is on the short list for worst shadow Attorney-General in Australia—a short list of one?

The PRESIDENT: Order!

The Hon. R.I. Lucas: Is he on the short list for the bench—the Football Park bench?

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: Ordinary law-abiding men and women acting in defence of themselves, their family or their property in a sudden emergency have nothing to fear from the new law. They will be treated no differently from the present law. Neither the new or the old law is a licence to kill or act in vengeance or retribution. A person in his or her home, genuinely believing that he or she is facing a threat from an intruder, can defend himself or herself. They can use force to defend themselves. If an intruder enters your home at night brandishing a knife or a gun (and you genuinely believe they are), and he threatens to kill you or members of your family and you take action which results in the intruder's death, in the circumstances envisaged by the new law you are not likely even to be charged. If, however, you are walking down the street and someone comes up from behind and taps you on the shoulder and you swing around and kill them, the force you use is likely to be out of all proportion to the threat made.

At this point I mention that self-defence is often used as a defence in situations where the parties are known to each other; for instance, in domestic violence situations or between intoxicated men in a drunken brawl. The home intruder situation is uncommon, but has been unreasonably the focus of public debate. The Government's amendments are designed to make the law clearer for everybody and not just for judges and juries. It is not designed to weaken the law and the protections available to law-abiding citizens.

It is time for a reasonable assessment of the legislation. I suggest that the member for Spence apologise to the people of South Australia for peddling lies and cheating people of the truth. People, particularly the elderly, are confused and afraid. They do not know when and where they can protect themselves, because Mr Atkinson is feeding them one lie after another. The people of South Australia deserve better than that. It is appalling that someone, particularly a member of Parliament, could stoop so low. We all know what he has to gain by upsetting people this way. If I have not managed to set the record straight here today, then time will do that for me and history will show the member for Spence for what he really is.

BUS SERVICES, HILLS

In reply to **Hon. T.G. CAMERON** (18 March).

The Hon. DIANA LAIDLAW: Further to my answer to the honourable member on 18 March I advise that in late 1992 the former Labor Government cancelled 50 per cent of bus routes, affecting 20 per cent of services on Sundays and public holidays. However, the Belair/Blackwood area was not among these routes and services because there have never been Sunday/public holiday services on bus routes in this area. This historical situation relates to a low and diverse population profile.

Contrary to the inference in the honourable member's question, TransAdelaide's tender did not refer to the provision of evening, Sunday and public holiday services on routes 195/196 or 738/739.

TransAdelaide proposed the operation of evening, Sunday and public holiday services to Happy Valley, Aberfoyle Park and Blackwood areas. Routes 197/198 operate from Blackwood to Happy Valley—and the additional cost to the Passenger Transport Board of approving such extra services would be $500 000 p.a., for which no agreement has been reached at this time.

Government policy is to encourage people to use public transport, and these improved services are aimed at achieving that. When comparing the old and new timetables, originally 42 buses were scheduled to meet the train at Blackwood Station, now 55 bus/train connections are made each week day.

The number of bus trips to/from Blackwood has increased from 50 to 73 per week day and the span of hours of operation of the bus trips has increased by 27 per cent each week day.

EDUCATION, PARLIAMENTARY SECRETARY

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services about his parliamentary secretary.

Leave granted.

The Hon. P. HOLLOWAY: Mr Mark Brindal very publicly resigned—

Members interjecting:

The Hon. P. HOLLOWAY: Yes, that is the point of the question. Mr Mark Brindal very publicly resigned as parliamentary secretary—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —in protest against the Minister's decision to sell land at the Goodwood Orphanage to Tabor College. My questions are:

1. Has a new parliamentary secretary been appointed?

2. Will the Minister warn any prospective appointee to the position of parliamentary secretary of the risks associated with the position?

3. In view of his difficulties in retaining parliamentary secretaries, will he give any aspirants, if there are any, an assurance that he will not close schools or sell off other DECS property within their electorates?

The Hon. R.I. LUCAS: There is no replacement for the member for Unley, Mr Brindal, because he is irreplaceable.

SUPERANNUATION SURCHARGE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Treasurer, a question about the superannuation surcharge.

Leave granted.

The Hon. R.D. LAWSON: In the last Federal budget it was announced that a surcharge is to be imposed on superannuation contributions for higher income earners and the proposal of the Bill, which is presently under consideration, will be that super funds will be levied rather than contributors to those funds; the levy will be an extra 15 per cent tax on employer contributions and deductable personal contributions, doubling the existing 15 per cent tax, starting at $70 000 and reaching its maximum at $85 000 and above. The surcharge raises two constitutional issues. First, in relation to State superannuation funds section 114 of the Constitution provides that the Commonwealth cannot tax the property of States. The South Australian Treasurer was recently heard on ABC radio saying that this State is disinclined to agree with the Commonwealth scheme. Another constitutional issue is raised by the Federal Constitution, which provides that the salaries of Federal judges cannot be diminished during the course of their appointment. The Federal Government has announced that it proposes to exempt Federal judges from the new scheme. My questions are:

1. Can the Treasurer inform the Council of the likely effect on South Australia of the superannuation surcharge if, in fact, it is imposed?

2. Does the Government have any plans to adjust the salaries of South Australian judges to compensate them for the effect of this legislation, given the common law presumption that the salaries of judges will not be reduced during their appointment?

The Hon. K.T. GRIFFIN: I will refer the questions to the Treasurer and bring back replies, but it is appropriate that I make some observations, more so because there are some legal issues involved as well as constitutional questions, particularly as they relate to judges. The issue was discussed at the Standing Committee of Attorneys-General last week, particularly in the context of the significant impost upon the State proposed to be exercised in relation to the superannuation surcharge. I know some work has been done to try to calculate what the impact of that legislation would be on South Australia, not just in relation to judges but also the superannuation funds. Certainly in relation to judges there is quite a significant amount of money involved, something in the hundreds of thousands of dollars by which their benefits would be reduced.

I understand at a Federal level they have accepted that for existing judges there cannot be a reduction in salary or entitlements but that new judges appointed will be subject to the Federal legislation and, therefore, a different salary will be paid. From a State perspective, we do not believe that that is a satisfactory way of dealing with those who exercise the same powers and responsibilities but are taxed differently, depending upon the dates when they are appointed. Certainly, from the State's point of view we are keenly interested in what might be the outcome of discussions on this issue at the Federal level. Of course, there is the broader constitutional question, that is, the attempt by the Commonwealth to impose tax upon the States on the basis that the States would then be required to legislate to impose the liability upon judges, magistrates, public servants and others. That raises very important questions about the rights of the States and, as the Treasurer has already indicated publicly, we are disinclined to fall in line with the Commonwealth on something in respect of which we were not consulted but, more particularly, which will set a dangerous precedent for the Commonwealth in its legislative and taxing program in respect of the States. In terms of the specific impact upon South Australia, I do not have those details at my fingertips. That and any other information that I have not adequately covered will be the subject of a reply in due course.

LOCAL GOVERNMENT GRANTS

The Hon. T. CROTHERS: I seek leave to make a precied statement prior to directing questions to the Attorney-General, representing the Minister for Local Government, concerning Commonwealth general purpose grants to councils.

Leave granted.

The Hon. T. CROTHERS: In a letter I recently received from the Minister for Housing and Urban Development was a table showing how the Local Government Grants Commis-

sion had disbursed Commonwealth general purpose grants to local councils. I take this opportunity of thanking the Minister for his letter. Also contained in the letter was the statement:

> These grants are untied and will be paid in four quarterly instalments. The first instalments are expected shortly and further payments will be made in February and May 1997.

Incidentally, the letter to me was dated 20 August last year. The letter also stated that the total allocation in respect of this grant to South Australia stood at $88 606 550. As the grants are to be paid in four separate instalments, my questions to the Minister are:

1. Who handles the moneys that are left in the State Government coffers pending the quarterly distribution of the Commonwealth general purpose grant funds?

2. What happens to any interest or investment earnings that accrue over the 12 month period when the State holds either in total or in part the original Commonwealth grant allocation?

The Hon. K.T. GRIFFIN: I will refer those questions to my ministerial colleague in another place and bring back a reply.

TRAFFIC INFRINGEMENT NOTICES

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister representing the Minister for Police a question about infringement notices.

Leave granted.

The Hon. A.J. REDFORD: Last Thursday, I was approached by Mr Barnard, a pensioner, who had received an expiation notice alleging that he had been travelling along Lonsdale Road, Sheidow Park, in a southerly direction at 74 km/h in a 60 km/h zone. He told me that on 13 February 1997 with three passengers he was travelling south in what he believed to be a 90 km/h zone. Upon receipt of the notice, he telephoned the Expiation Notice Branch and spoke with Senior Sergeant Lindner whom he told that a mistake had been made because the speed limit on Lonsdale Road was 90 km/h. Senior Sergeant Lindner told him that he was obviously mistaken and suggested that he go over the route again.

Mr Barnard did that and confirmed that it was a 90 km/h zone. He again rang the Expiation Notice Branch and was told that he had to write a letter. He wrote to the Expiation Notice Branch explaining his findings and also mentioned that one of his passengers had since advised him that they had noticed a 60 km/h temporary sign lying on the road. In that regard, Mr Barnard checked with the appropriate authorities who said that it was a common occurrence, that road signs were unstable and prone to be knocked down or blown down, etc. He was also advised that permanent road signs should be bagged. In his letter, Mr Barnard asked for a copy of the photograph.

On 10 March 1997 Mr Barnard received a fresh notice which said that, instead of exceeding a general speed limit, he had exceeded a speed limit where roadworks were being undertaken. There was no reference made in the accompanying letter to the correspondence which set out Mr Barnard's explanation. Furthermore, the photograph was not enclosed. Mr Barnard telephoned the Expiation Notice Branch and subsequently obtained a copy of the photograph. He then approached me.

Last Thursday, I rang the police infringement notice people and spoke to a woman named Janine, who refused to give me her surname and suggested that I put the matter in writing. She also suggested that as a member of Parliament I should not seek the surname of public servants whom I contact. Later, I spoke with Senior Sergeant Lindner, who advised me that the Expiation Notice Branch receives approximately 1 000 letters of complaint a week and that, other than looking at the papers, they do not make any individual inquiries about the assertions made by the people who complain, regardless of whether they are pensioners or have a good record or whether there might or might not be a suspicion that an error had been made.

That causes me grave concern, particularly when so many infringement notices are being issued to citizens who are normally law-abiding and who rarely come into contact with the judicial system or the police. In that context and in the interests of pensioners who have been taxpayers and law-abiding citizens for the whole of their life, I ask the following questions:

1. Under what circumstances do the police check allegations of fact other than by looking at police documents?

2. What checks exist in the system to ensure that complaints are not merely fobbed off but are actually given serious consideration?

3. Why cannot inquiries be made regarding matters raised in correspondence, and is it the practice to not refer to or deal with matters that have been raised in any reply?

4. Is it possible to conduct a review of the system so that complaints can be properly considered having regard to the fact that if one fights the system through the courts using a solicitor it can cost up to $2 000 or without a solicitor inevitably it will lead to fines and costs of $800 for some of these poor pensioners?

5. When inquiries are made of Government agencies by members of Parliament or the public, why are the names of the public servants who deal with these matters not given so that people can be held properly accountable and reference can be made to the advice these people give?

6. Finally, will the Minister look into this matter so that it can be determined whether it is possible that the 60 km/h sign was lying on the road, so that this constituent can be treated with the respect and dignity he deserves?

The Hon. R.I. LUCAS: I will refer the honourable member's questions to the Minister and bring back a reply.

PUBLIC FINANCE AND AUDIT (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 1302.)

Clause 4—'Insertion of s. 41A.'

The Hon. M.J. ELLIOTT: I did not table another amendment. I gave copies of my proposed amendment to both the Government and the Opposition, but during the break I was approached by a member of the Opposition and was informed that the Opposition would not insist any further on any amendment, to which I commented that I was not surprised. I will not waste the time of the Council, not because I think the matter is unimportant but because it is clear that no amount of persuasion here on the floor will make the least bit of difference.

The Hon. CAROLYN PICKLES: This morning, the Opposition asked the Attorney to report progress to allow us to consult on this issue. The Attorney has put his views to the shadow Treasurer who is handling this Bill in another place and satisfied him as to the validity of his arguments, and I am also satisfied. I think it would be most unfortunate if this Bill were not to proceed, because the Attorney has already indicated that, if this amendment were insisted upon, he would pull the Bill. We have accepted the Attorney's arguments which he put to the Council this morning, and the Hon. Mr Elliott has indicated that he will not proceed with his amendment, which in any case we would not have supported.

Amendment negatived; clause passed.

Title passed.

Bill read a third time and passed.

GAS BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1309.)

The Hon. R.D. LAWSON: I support the second reading of this Bill. As the second reading explanation noted, this Bill is part of the Government's commitment to gas sector reform to ensure competition in this sector against the national background of legislative and other reforms for the creation of a national gas market which will, it is claimed, provide greater customer choice and improved services. The South Australian community has been well served for a long time by the South Australian Gas Company, a private sector utility which has operated most effectively in our market. There is no competition at the moment in the reticulated gas market directly, although of course gas does compete with electricity and other energy forms. There is also competition in the bottled gas market; there are a number of players in that market.

I certainly support the separation of the functions of retailer and supplier, namely, those functions which are currently carried out by the Gas Company, the separation of those functions from its regulatory function—although in the context, certainly of gas reticulation, there is no current competitor. The only question I have is whether it is envisaged that there will, in the future, be competition in the gas reticulation market in this State. It is easy to understand competition in the electricity distribution market, where it is possible for the publicly owned facilities, namely, the publicly owned network, to be used for private sector providers. The Gas Company owns its own reticulation network, and I would be interested to know whether it is envisaged that there will be competition in either the commercial or domestic sector. However, as I say, I support the principles of this Bill and I support the second reading.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank honourable members for their contributions. A number of issues have been raised together with an amendment foreshadowed by the Hon. Paul Holloway. The Government will explore those issues in Committee.

Bill read a second time.

In Committee.

Clauses 1 to 6 passed.

Clause 7—'Technical regulator.'

The Hon. P. HOLLOWAY: Who does the Government have in mind to hold the position of technical regulator? I understand in relation to the Electricity Bill it was the CEO of the Energy Division. Is it the intention of the Government to have the same person fill both positions or will it be somebody different?

The Hon. R.I. LUCAS: While we cannot commit the Government to anything yet, the thinking at this stage is that it is probably preferable to have the one person fill both roles.

The Hon. A.J. REDFORD: I have a couple of questions, and I am happy for them to be taken on notice. I preface them with the following comments. I have spoken on gas on other occasions, in particular in relation to the Gasfitters Union. Some members here might recall that speech, from the looks on their faces. As I said at the commencement—

Members interjecting:

The Hon. A.J. REDFORD: We did think a lot of it; I must say, though, I have not been deluged with Christmas cards since.

Members interjecting:

The CHAIRMAN: Order!

The Hon. A.J. REDFORD: The point I made in the context of that speech was that we in this State have a gas monopoly, one which was created by the failed, discredited and hopeless Bannon/Arnold Governments.

The Hon. P. Holloway: Hardly; we have had a monopoly in gas for a hundred years.

The Hon. A.J. REDFORD: It was in the hands of the public, but as a consequence of their extraordinary negligence they then sold what little control they had totally to private enterprise. So we have that worst of scenarios: a privately controlled monopoly. I note that there are some provisions in the Bill that place some checks on this privately controlled monopoly. In particular I draw your attention, Mr Chairman, to clause 33, being the pricing regulator. I would be grateful to know what role the pricing regulator has, what powers he has, and to what extent the pricing regulator will be able to ensure that South Australians are receiving their gas at a fair price in the absence of real and tangible competition.

Is the pricing regulator able to ensure that the practices of shifting cost centres to other enterprises or interstate will be picked up in determining an appropriate price for gas for South Australian consumers? Will the pricing regulator be able to ensure that Boral, a privately owned monopoly, does not do sweetheart deals with relevant unions in the absence of competition and then pass that on to the unsuspecting South Australian consumer in the absence of competition? What steps will the pricing regulator take to stop sweetheart agreements and to ensure that inappropriate deals are not done with the union movement and to ensure that, again, the South Australian consumer is protected? Is the Government satisfied, particularly in relation to clause 33, that we will not have visited upon us some of the practices about which we have all heard on previous occasions in this place?

The Hon. R.I. LUCAS: It is a very interesting set of questions, and I will look forward to the answers with interest as well. I am pleased, on behalf of the Minister and the Government, to give assurance that I will refer the questions to the Minister and that the member will receive a response during the coming break between this session and the next session Parliament.

The CHAIRMAN: I ask members, when putting a series of questions, to do it when we get to the particular clause or at the commencement. We are in Committee and we would like to deal with matters as the clauses arise.

Clause passed.

Clauses 8 and 9 passed.

Clause 10—'Technical regulator's power to require information.'

The Hon. P. HOLLOWAY: I wish to ask a question about the legal effect of the words 'reasonable' and 'reasonably' which occur. Clause 10(1) provides:

> The technical regulator may, by written notice, require a person to give the technical regulator, within a time stated in the notice (which must be reasonable) information in the person's possession that the technical regulator reasonably requires for the administration of this Act.

There a considerable penalty in relation to this clause—some $10 000 maximum penalty. Would the Minister clarify the legal effect of the words 'reasonable' and 'reasonably' in this clause?

The Hon. R.I. LUCAS: I am not a lawyer, but I assume that the response is that it is the case as with most other pieces of legislation where we use the word 'reasonable'. There is established case law or legal precedent (whatever the appropriate phrase is) which will govern the judgments in relation to this, and the penalty of $10 000 would be at the extreme end in terms of a penalty for an offence. I do not think there will be one precise definition of 'reasonable'. There is obviously a dictionary definition of 'reasonable', but there will be legal precedent or case law which will govern the interpretation of this if it ever has to be adjudicated upon.

Clause passed.

Clause 11—'Obligation to preserve confidentiality.'

The Hon. P. HOLLOWAY: During my second reading speech, I raised the question of the Freedom of Information Act exemption under clause 11(2). I was concerned that this would effectively remove any appeal provisions that currently exist in the Freedom of Information Act. As I understand the Freedom of Information Act, it adequately covers cases where there is information which is commercial in confidence and which would affect the competitive position of any gas entity or person. I would have thought that subclause (2) was superfluous, but it would serve to remove any appeal provisions.

As I said earlier, I did not wish to challenge it in the sense that similar provisions are contained in the Electricity Act, and I understand that most of the information that would be forwarded to the technical regulator might be confidential and should not be released. However, I am concerned about the precedent that is creeping into legislation whereby blanket exemptions are given to the FOI Act. Would the Minister explain why subclause (2) is considered necessary?

The Hon. R.I. LUCAS: As the honourable member has indicated, a similar provision, if not exactly the same provision, was in the Electricity Act 1996 which I understand was supported by all members in this Chamber. I cannot add too much more detail to the matters he has raised. There are provisions within the FOI legislation covering, broadly, the same area of commercial confidentiality.

The Hon. T. CROTHERS: When you refer to the Electricity Act and the fact that it contains the self same clause in respect to the FOI Act, I must ask what is the penalty in that Electricity Act in respect of enforcing that provision? Indeed, is there any form of appeal in terms of the Electricity Act? Are we comparing an apple with an apple? What is the score?

The Hon. R.I. LUCAS: My advice is that the penalty is the same under the Electricity Act 1996.

The Hon. T. Crothers: Is it appealable?

The Hon. R.I. LUCAS: The honourable member would be pleased to know that if a court were to find someone guilty and impose a fine of up to $10 000 that would be appealable.

Clause passed.

Clause 12—'Executive committees.'

The Hon. P. HOLLOWAY: What functions are envisaged for these executive committees? Are employees of the Gas Company eligible to be on these committees, given that they have the expertise and that they potentially would be in a conflict of interest situation?

The Hon. R.I. LUCAS: I am advised that one example might be the Consumer Protection Committee, for instance, which might provide advice to the technical regulator. It does not appear that there are any restrictions as to whether or not employees can be on it. There seems to be a body of opinion about this: there is probably no reason why they could not be on it. I do not think there has been any final determination on that sort of detail yet.

Clause passed.

Clauses 13 to 19 passed.

Clause 20—'Application for licence.'

The Hon. P. HOLLOWAY: What did the Government have in mind in relation to an application fee for licences under this section? Even if the Minister cannot tell us exactly what fee has been decided, perhaps he can tell us on what basis a fee will be determined.

The Hon. R.I. LUCAS: I do not have information on the level or quantum of the fee, but the fee would be calculated on the basis of recovering the administrative costs that might be involved in whatever process was being covered. I am advised that under the Electricity Act it has generally been done on the basis of the number of consumers, and it might be possible that a similar process would be used under this legislation.

The Hon. P. HOLLOWAY: Can the Minister indicate whether that will be the basis on which other fees, such as those in clause 24 and later clauses which set fees, also will be determined?

The Hon. R.I. LUCAS: In relation to clause 24(3)(b), which concerns the licence for the operation of the distribution system, I am advised that that would be the case.

Clause passed.

Clauses 21 to 67 passed.

Clause 68—'Disconnection of gas supply.'

The Hon. SANDRA KANCK: I have had raised with me by the Consumers Association, which, by the way, was not provided with a copy of the Bill—and I was disappointed to find that out because it was interested in it—a practice of the Gas Company which was modified as a result of the work of the Consumers Association. The Gas Company has in the past—and I am sure probably will do again this year with winter coming up—offered gas appliances for sale to people on the basis that they have six months before they have to make a payment. Most people are likely to be buying gas heaters in June or July, and six months down the track you are looking at Christmas and the immediate post-Christmas period when there are bills to pay.

Until the Consumers Association intervention, consumers who had purchased an appliance and found that at Christmas time they were not able to make a payment had the Gas Company threatening to disconnect—and I believe that in some cases it did so—the supply of gas to those homes because they had not paid for the appliance by that time. Apparently there was nothing in the contract, and the Consumers Association made representations to the Gas

Company. As a consequence, this now appears in the contract that consumers sign so that they know that, if they do not pay, six months down the track their gas will be disconnected.

The Consumers Association put the view to me that this is a bit like buying a car and not making your payments on it, and then finding that some arrangement had been made with the petrol companies to stop you from filling the car with petrol. Apparently the Gas Company feels that it can in all conscience do this. Obviously these people will not need heating in summer, but they are losing their gas not only for heating but also for cooking and hot water. In terms of this Act, I wonder whether this would be regarded as an anti-competitive measure and, if so, whether the technical regulator would intervene in such a situation.

The Hon. R.I. LUCAS: I am advised that the current thinking is that it is unfair. One of the options that is being considered is whether, by regulation, it might be prevented through some of the licence conditions. No final determinations have been made on that, but I am advised that that is the current thinking.

Clause passed.

Clauses 69 to 76 passed.

Clause 77—'Power of exemption.'

The Hon. P. HOLLOWAY: This clause provides that the technical regulator may grant an exemption from this Act or specified provisions of this Act on terms and conditions that the technical regulator considers appropriate. I would argue that this is a fairly wide-ranging power. It is my concern that, if that power is to be exercised, there should be some accountability or reporting of it. Is it the intention that any exemption should be reported in the annual report or in some other way be notified, given they do give, in effect, the powers of the Parliament to the technical regulator inasmuch as anything in this Act can be exempted?

The Hon. R.I. LUCAS: I think the honourable member has raised an interesting question and an interesting suggestion. Certainly there is nothing in the legislation which requires it to be reported in the annual report or indeed prevents it. I would be prepared to take up the issue for the honourable member with the appropriate Minister and recommend that he might closely consider the honourable member's suggestion and have him correspond with the honourable member in the interim between the passage of the Bill and the next session of Parliament.

Clause passed.

Clauses 78 to 94 passed.

Clause 95—'Regulations.'

The Hon. P. HOLLOWAY: I move:

Page 38, lines 31 and 32—Leave out this paragraph.

Basically this would remove the power of the Government to make regulations in regard to fees to be paid in respect of any matter under this Act and the waiver or refund of such fees. I explained in some detail during my second reading contribution the reasons for this amendment. I want to make the point that the Opposition was concerned that on the very few occasions in the past when we have moved disallowance of regulations this Government immediately reinstituted those regulations and that negated the effect of the disallowance. We would accept in relation to something as important as the Gas Bill there would be many technical and safety regulations which might need to be changed at short notice. We certainly would not wish to in any way obstruct that process.

However, in relation to fees, which are not time sensitive, we believe we should express our protest at the continued behaviour of the Government in just riding roughshod over decisions of this Parliament to disallow regulations by insisting that in future any fee setting power should be incorporated in the Act. In this way, the Government will no longer be able to ignore decisions of this Parliament to disallow regulations. That is the reasoning behind it. I am not suggesting in any way there are any problems with those who are responsible for the gas regulations and the Gas Act. However, we do have concerns that this Government is ignoring the wishes and the will of the Parliament in the way it is ignoring the disallowance of regulations.

The Hon. R.I. LUCAS: This is a bizarre notion from the honourable member. If we were in the unfortunate position for this to in effect successfully pass the Legislative Council, it raises all sorts of bizarre consequences. What the honourable member is in effect saying is that hundreds of pieces of legislation which have virtually the same provision, instituted by the Labor Government or the Liberal Government to allow a broad power to set fees by way of regulation, using the same principle, would have to be removed to be consistent.

The Electricity Bill had exactly the same provision. The Hon. Mr Holloway supported it. The record shows there was no objection from the Hon. Mr Holloway when the Bill went through the Parliament. He put up his hand and voted for it at that time, and the record shows that, in a number of other pieces of legislation, both in the Upper House and Lower House, the Hon. Mr Holloway has supported exactly the same provision. He actually supported a number of pieces of legislation when his own Government introduced them along these particular lines. It is just a standard procedure. If the Hon. Mr Holloway—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Out of the thousands of regulations issued over parliamentary terms by Governments, there would be no more than a handful, if that, that the honourable member could refer to where the Government has reinstituted regulations as soon as they expired. I challenge the honourable member to give us this list of hundreds of examples—

Members interjecting:

The Hon. R.I. LUCAS: Okay, it is less than a handful.

Members interjecting:

The Hon. R.I. LUCAS: Out of all the regulations, this is not a significant problem.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: Now we have the Hon. Mr Roberts and his fishing regulations again. The dilemma here is that the Hon. Mr Holloway is suggesting that every time any minor change has to be made in relation to the setting of a fee, rather than using the established practice of issuing a regulation which is then capable of being disallowed by the Parliament if the Parliament so chooses in the normal course, we would have to introduce a Bill each and every time there was to be a minor change to a fee mechanism.

The Hon. Mr Holloway obviously wants to grind the whole system to a halt. He is obviously intent on hundreds of these little Bills churning through the place. Every time a fee has to be changed, he wants another Bill to be introduced. Parliamentary Counsel has to draft a Bill, and we have to go through the whole parliamentary process to process all these fee regulation changes. It really is a silly proposition.

If the honourable member has a problem with the way regulations are disallowed, etc., there are other pieces of legislation, or processes in the Parliament, where he can seek to gain support of the Houses of Parliament to change the process, if he so chooses. He will have to get the support of

his own Party room for that, and it would have to ignore decades of precedent and practice by Labor Governments and himself to do so, but there is a process. If he wants to attack this issue of principle, do it on a substantive issue or Bill that relates to it. Do not do it in this obscure way on a minor provision of this Bill, which is easily replicated in hundreds of other Acts and pieces of legislation in the State, all of which he supported during his time in the Parliament.

I am entirely unconvinced about the merit of the amendment before us. I could speak for a lot longer and endeavour to persuade the honourable member about the folly of his ways, but I just have to rely on the good sense and wisdom of the Deputy Leader of the Australian Democrats not to be seduced by the logic or persuasive ability of the Hon. Mr Holloway on this issue so we do not have an extended Committee stage on this aspect of the legislation.

The Hon. P. HOLLOWAY: I will make the point clear one more time. I am sure that whatever I say the Minister will not accept. The Opposition has on just a handful of occasions sought to disallow a regulation passed by this Government out of the hundreds of pages of regulations setting fees and meeting all other sorts of objectives of the Government. We have only resorted to using the disallowance powers on very few occasions because we believe that, generally speaking, the Government should have a right to govern, but if there are particular matters of concern to the Opposition it has the right to seek to disallow those regulations. We have only used that power on a couple of occasions since I have been here, but the Government has ignored that.

The Government is taking away the power of the majority of members in this Parliament to effectively disallow regulations. If you reinstitute those regulations as soon as they have been disallowed, there is no virtue in disallowing them in the first place. That is the point I am making. If the Government wants to play this game, as it has with the two instances I gave earlier of the fishing netting regulations and the Housing Trust water allowance regulations—the only two we have sought in recent times to disallow—the Opposition has no alternative but to insist that the Government puts those powers into the Act where we have the right to prevent their happening.

The ball is at the foot of the Government. If the Government intends to ride roughshod over the decisions of this Parliament by reintroducing disallowed regulations as soon as they have been disallowed, it effectively negates the prerogative of this Parliament. I apologise to the Hon. Sandra Kanck as she did not have much opportunity to look at this regulation and I can understand her concerns about it, but I hope that she will share the concern of the Opposition at the way this Government is increasingly showing little respect for the powers of this Parliament.

The Hon. SANDRA KANCK: The Democrats will not support this amendment, not because we think it is bad *per se*, but because it is a little too general. It is a 'throwing the baby out with the bath water' amendment.

The Hon. R.I. Lucas: Which is anti-conservation.

The Hon. SANDRA KANCK: It is definitely anti-conservation. If there was something to put in its place I seriously would have considered it, but because it is taking something out and leaving a vacuum, I am not prepared to support it. I find it concerning when Parliament is treated with that sort of arrogance when it disallows a regulation and it is reintroduced, but the Hon. Mr Holloway should know that a Labor Government has done it in the past as well, so it is not unique to this Government. I am going back to 1984 or 1985 under the Bannon Government, but it shows that Governments of both Labor and Liberal persuasion are prepared to use this tactic.

The Hon. R.I. Lucas: We need a Democrat Government.

The Hon. SANDRA KANCK: Absolutely. I am working towards it. The principle that the Hon. Mr Holloway is espousing is valid, and because of that sort of thing occurring the Democrats, for a number of years and where we can, have been taking out from regulation making powers things that need parliamentary control and debate, but it requires something else in its place and that has not been provided in this instance, so the Democrats will not support the amendment.

Amendment negatived; clause passed.

Schedule.

The Hon. SANDRA KANCK: What is the timetable at which we are looking? The schedule is repealing other things. When will this occur and when does the Government think things will fall into place? I know we will be getting an access Bill at some stage. When? What is the relationship of all this to competition payments?

The Hon. R.I. LUCAS: I am advised that the current thinking is that the access legislation might be early 1998, that the transitional provisions envisaged in this, together with the transitional provisions for the electricity Bill, we will try to progress at broadly the same time if possible. The legislation can be seen to be consistent with the competition principles and will be part of the overall judgments the Commonwealth makes in relation to the degree to which the States and territories comply with those competition principles for the payment of those competition compensation payments.

The Hon. P. HOLLOWAY: I raised a couple of matters in the second reading to which the Minister has not responded to date. One referred to questions raised in the House of Assembly by my colleague, John Quirke. He asked about the impact of this Bill upon the use of LPG in motor vehicles and the Minister for Energy undertook to obtain information on this matter. It might have been provided to that member, but could the Minister put something on the record in relation to that?

The Hon. R.I. LUCAS: A letter was sent from the Minister for Energy to Mr Quirke on 14 March. I have a copy of that letter which states:

Dear Mr Quirke.

Re: Gas Bill.

During the debate on the Gas Bill 1997 I undertook to advise you on who is responsible for liquefied petroleum gas (LPG) safety in respect of LPG car connections, refuelling of LPG auto gas vehicles and the refilling of LPG bottles from garage bulk cylinders. I confirm that these LPG safety aspects are covered by the Dangerous Substances Act 1979 and regulations, and in general by the Occupational Health, Safety and Welfare Act and regulations.

At present regulations in the Dangerous Substances Act 1979 require that a person dispensing LPG to the fuel container of the vehicle shall be at least 18 years of age and comply with the attached filling instructions (see attachment 1). These regulations also require that a person installing LPG equipment into a vehicle for alternative fuel be trained in both LPG and mechanical skills and that the work is undertaken subject to the issue of an auto gas permit and in accordance with Australian standard 1425 SAA automotive LPG code.

There are no such direct regulations applicable to the filling of, say, barbecue cylinders. However, filling cylinders other than automotive is not undertaken by the public and as a workplace activity the general requirements of the Occupational Health, Safety and Welfare Act apply. These provisions require adequate staff trained appropriate to the task and the provision of a safe and healthy working environment. Further to this, all premises keeping more than

250 kilograms of LPG are required to hold a dangerous substances licence under the Petroleum Products Regulation Act and the licensees are obliged to comply with the requirements of AS1596SAA LP gas code. This standard sets requirements for the filling of cylinders such as limiting the size which can be filled by decanting and controlling ventilation in the presence of sources of ignition. The controls over LPG described above will remain under the Dangerous Substances Act 1979, which is administered by the Department of Industrial Affairs.

It is intended that the Gas Bill 1997 only control the use of LPG and gas fitting work downstream of the gas storage cylinder. I trust this clarifies the current situation and eases any concerns you may have.

Stephen Baker.

The Hon. P. HOLLOWAY: That dealt with the first matter and I thank the Minister for his answer. The second matter was a question I asked about the progress of drafting regulations under the Bill. Are those regulations available? If not, when is it envisaged that they will be ready?

The Hon. R.I. LUCAS: They are not available yet. The Government is in full consultation mode, as it always is with its legislation, and we hope it will be ready soon.

Schedule passed.

Title passed.

Bill read a third time and passed.

RACING (INTERSTATE TOTALIZATOR) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 March. Page 1181.)

The Hon. R.R. ROBERTS: This Bill has been brought into the Parliament late in the session and we are advised by the Minister that there is some haste required. It relates to an amendment to section 82A, which provides for deductions from the amount of the bets placed and requires correspondence between the laws of the States concerned on the subject. A problem was encountered when the TAB entered into an agreement with VicTab (now Tabcorp) in 1992. The Victorian law has changed since then and it is necessary to provide in clause 2 that the provision will operate from the date when section 82A first came into operation. The Bill does two things. It puts into law a practice which has been going on in an *ad hoc* way to cover the situation brought about by the privatisation of the Victorian TAB. I am assured that the changes that the Bill finalises have been occurring and punters in South Australia can be assured that they have not been short changed in their winning bets.

I am certain that this measure is probably necessary for another reason. I note it is the end of session and almost time for Oakbank. We are all aware that when the Minister for Racing goes to one of these major functions he always likes to make a positive announcement. As we did last year with the setting up of RIDA, he will now be able to go to Oakbank and announce with great pride that he has introduced a change which has actually been operating for the past 18 months but it is a necessary procedural matter and the Opposition will be supporting it.

The Hon. CAROLINE SCHAEFER: I support the Bill. As the Hon. Ron Roberts has said, the amendment corrects a technical matter brought about by the privatisation of VicTab. In 1994 we agreed to pool betting with Victoria in order to give larger betting pools. This again brings us into line with Victoria. As in some ways it is retrospective, there is a degree of urgency that the Bill be passed. The TAB in South Australia has recently begun a fairly vigorous system of advertising which seems to be paying some dividend and turnover with the TAB and attendances at race meetings in Adelaide have again begun to increase. As I have mentioned before, the racing industry is very important to South Australia. It employs a number of people and has the third largest turnover of any industry in South Australia so it is not just a matter of a punt on Saturday afternoon. We are talking about a very valuable industry and anything we can do to further that industry and the enjoyment of people who choose to patronise the sport I will support.

The Hon. A.J. REDFORD: I will be brief. I take the opportunity to make a couple of general comments about racing. First, it was not that long ago when we were debating a completely new Racing Act with a new structure—RIDA—and I am pleased to say that, despite some of the sceptical comments I made at the time, after talking to some of the key stakeholders in the thoroughbred industry, it seems that matters appear to be proceeding quite well. There have been some glitches and a substantial change in roles of a lot of people who were involved in the management of the industry. I know that the Government is reconsidering and consulting on the role and tasks for some of the bodies involved in management of racing at the moment and I look forward to seeing in this place the result of the consultation that has been undertaken. But I will go on the record congratulating the Minister, despite my scepticism expressed as the Hon. Caroline Schaefer reminds me 12 months ago, about this legislation.

I have a couple of comments to make about sponsorship of racing and Living Health, but I will have a better vehicle later this afternoon when I will be raising a couple of issues concerning Living Health's sponsorship in the racing industry which has probably not been as supportive as one would have believed following the John Cornwall approach in introducing that legislation. I will deal with that later. There has been considerable speculation and discussion about the future of the TAB and whether the Government ought to proceed down the path of corporatisation and ultimately privatisation, similar to the process adopted by the Victorian Kennett Liberal Government.

I believe that it ought to be approached with a great deal of caution, because the TAB has a monopoly in South Australia in terms of betting on racing. If we do embark on such a process, obviously I would like to see the revenue stream to the State protected and at the same time ensure that the punter gets the best value for his dollar. I hope that, if any discussions take place—at this stage, I do not know of any, all I know of is the speculation—those two very important aspects are taken into account. I commend the Bill to the Council, and I congratulate the Minister and the many people who have been charged with the responsibility of reforming the racing industry, which includes the thoroughbred, trotting and greyhound industries.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contribution to the second reading debate and their indication of support.

Bill read a second time and taken through its remaining stages.

TOBACCO PRODUCTS REGULATION BILL

In Committee.

(Continued from 19 March. Page 1294.)

Clause 9—'Unlawful consumption of tobacco products.'

The Hon. ANNE LEVY: Yesterday, I asked questions relating to the interpretation of this clause and the use of the word 'consume' to include the words 'give away'. At the end of the discussion I was not much wiser, and I suspect that neither was the Minister. I ask the Minister whether Treasury officials might be able to indicate to me later by letter what sort of a loophole is created if the word 'consume' does not take on the additional definition of 'giving away' and why this clause must have this meaning? I appreciate that it is a complicated legal/economic matter and that it may be difficult to explain fully on the floor of the Council, but I would appreciate receiving a reply later.

The Hon. R.I. LUCAS: I am happy to give that undertaking, and I will ensure that that reply is sent to the honourable member during the break.

Clause passed.

Clause 10—'Consumption licences.'

The Hon. R.I. LUCAS: I move:

Page 8—
Line 21—Leave out '$150' and insert '$500'.
Line 22—Leave out '$300' and insert '$1 000'.
Line 23—Leave out '$600' and insert '$2 000'.

The advice that I have been given is that these amendments will ensure that the perceived threats that have been made by certain segments within the industry will not result in the State's revenue suffering a loss, and the level of consumption licence fees are reflective of those of a heavier smoker.

The Hon. R.R. ROBERTS: How many of these consumption licences have been issued in South Australia?

The Hon. R.I. LUCAS: In the past five years, fewer than 10, and they have all been issued in the past year.

The Hon. R.R. ROBERTS: The Opposition is opposed to these amendments—and I give an indication that the next two have obviously fallen, so we do not want to go over it three times. This clearly comes back to the initial point that the Opposition made about the tax grab. That situation has been lost, from our point of view, in another place, but we take the same view here.

The effect of these amendments is to restrict as much as possible any smoker's ability to lawfully reduce his costs. Again, it reinforces the principle that we espoused earlier. The Government is now going to make sure that it grabs as many dollars as it can through the other tax system that the Hon. Sandra Kanck has joined with the Government in imposing on smokers in South Australia. We see this as part of that tax regime and we oppose it.

The Hon. R.I. LUCAS: The advice to me is that this increase which has been moved by way of amendment will not generate significant sums of money for State taxes or for State revenue. We are talking about less than 10 consumption licences over five years. The State is not going to get fat on the revenue generated by fewer than 10 consumption licences over five years, even at the levels that are being moved by way of amendment.

Whilst I can understand the Labor Party's adopting a position when potentially some millions of dollars of revenue might be involved, when you are looking at 10 consumption licences at $500, under the new amendment, we are talking about the princely sum of $5 000. We are not talking about millions of dollars here. We are talking about something that, on the best advice of the State Taxation Commissioner, Treasury and the others who have been involved in this, is the appropriate level at which to put this fee to ensure the proper administration of the legislation.

The Hon. CAROLINE SCHAEFER: I will probably show my ignorance here, but I would like a further explanation of what a consumption licence actually does. I assumed that it was a licence that perhaps a licensed venue could get to resell cigarettes. However, it seems now to be a licence that the Hon. Anne Levy, if she smokes sufficient cigarettes, can buy, and then buy her cigarettes wholesale. While, as I have previously stated, I am not a smoker and have no desire to encourage the habit, a leap from $600 per annum to $2 000 per annum for that licence would seem to be excessive by anyone's standards.

The Hon. R.I. LUCAS: The advice provided to me—and one sees this when one looks at clause 9(1)(a) and (b)—is that a consumer of tobacco products has two options: one can purchase from a holder of a tobacco merchant's licence, or, if one does not want to purchase from such a normal outlet, one has to obtain a consumption licence. So, the 99.9 per cent of people who purchase from usual outlets do not have to worry about consumption licences. However, if one does not want to purchase from a licensed outlet, one then has to obtain a consumption licence. The reality is that 99.9 per cent of smokers purchase through the normal outlets; they do not have to worry about it. However, for a variety of reasons, over the past five years 10 persons have gone down the path of a consumption licence—most of those in the past 12 months, evidently.

The Hon. ANNE LEVY: I would like to follow on from the comments made by the Hon. Caroline Schaefer. This is a proposal to raise the consumption licence fee from a Government which said it would increase charges only by CPI. I recall that very prominently as part of its last election campaign: 'We will not increase taxes or charges, except by CPI.' These current figures were established only nine years ago. There have certainly not been CPI increases of that magnitude in that time. This is a 330 per cent increase! Not by the wildest stretches of imagination could one say that that was an increase by CPI only.

So, the Government by doing this is in fact breaking yet another election promise. It said that it would not raise taxes, yet the figures in an earlier clause clearly raise extra taxes. The Government said that charges would only increase by CPI. That is not true for most people's water bills, and it certainly will not be true for consumption licences for cigarettes. Whether it is 10 people or 10 000 people seems to me to be totally irrelevant to the principle that taxes and charges were only to rise by CPI. I challenge the Minister to justify a rise of this magnitude, which is way beyond any CPI figure which could possibly be used and would be quite unable to justify a rise of 330 per cent.

The Hon. R.I. LUCAS: There are some delicate issues in relation to this issue in terms of the legal aspects to which various members have referred. However, there is a very strong view—and I might put a point of view to the Hon. Sandra Kanck, because the Government feels that this is a very important issue.

The Hon. Anne Levy: But I asked the question.

The Hon. R.I. LUCAS: Yes, I know. I am just saying that this is a very important question. The Hon. Sandra Kanck's vote is going to be, potentially, critical: the honourable member's, I am assuming, will be with the Hon. Ron Roberts.

The Hon. Anne Levy: I object. I asked the question and I expect an answer.

The Hon. R.I. LUCAS: Grow up, Anne.

The Hon. Sandra Kanck: I am listening to you, Mr Lucas.

The ACTING CHAIRMAN (Hon. T. Crothers): Can we have a bit of order? I notice that people involved in the question, at least for part of it, were talking to someone else. I call you to order. The Minister has the floor.

The Hon. R.I. LUCAS: I am advised that this is an important issue in relation to the administration of the scheme. Potentially, if segments within the industry are able to convince large numbers of people to move to consumption licences, there will be a significant reduction in the cost of tobacco products for consumers. I should have thought the Hon. Sandra Kanck would not want to see that, given the health mission and objectives that she has indicated in her second reading contribution and in the Committee stages of the debate. The Government is saying that if the amendments we are moving are unsuccessful, potentially, you might see a significant number of people move to consumption licences, which would lead to lower prices for tobacco products for those consumers and which would be contrary to the direction in which both the Government and the Hon. Sandra Kanck would want to head.

The second issue, which is critical to the Government, perhaps not as critical to the Australian Democrats (although they have an interest as well), would be the significant impact, potentially, on the revenue to the State. We currently collect approximately $200 million in ballpark figures. Clearly, the Government revenue base cannot sustain a policy impact which would see, potentially, a significant reduction in that revenue base. If we did, the Government would have to either reduce services in some areas or increase revenue somewhere else. This is significantly higher than the CPI inflation rate argument, as the Hon. Anne Levy is seeking to portray it. It is the best advice base from the Commissioner of State Taxation and others responsible for the administration of the scheme that we do need the legislation and that we believe this amendment is important. Certainly, we do not want to see a wholesale movement—as evidently some people are threatening within the industry—towards consumption licences.

The Hon. A.J. REDFORD: How much tax is collected from licensed merchants at the moment; how much tax can they collect by way of consumption licence; how much is likely to be collected under the new regime, a matter which was discussed yesterday, by way of licensed merchants; and, how much will they collect from consumers by way of consumption tax under this proposal?

The Hon. R.I. LUCAS: We currently collect about $210 million a year from tobacco merchants' licence fees. The Treasurer has estimated that the ballpark increase, if the legislation passes, is of the order of $5 million. The tobacco companies disagree with that very strongly and believe it will be about $2 million to $2.5 million. Last year, seven $150 consumption licences (which is the princely sum of approximately $1 000) were issued. If the legislation goes through with the amendment, we would see, broadly, the same: a very low level of consumption fee. We are talking about $1 000 here or there compared with protecting a revenue base of $210 million a year.

The Hon. A.J. REDFORD: Why do we have a consumption tax at all if we are collecting only $1 000? Why not abolish it and make it compulsory for people to buy through a merchant and forget about this aspect altogether?

The Hon. R.I. LUCAS: If we do not have it, we do not have a consumption tax. The Hon. Angus Redford is a lawyer and he will know legal construction and legislation. If you do not have a consumption tax licence, you do not have a consumption tax. At the moment, we are fighting a rather delicate battle in the High Court in relation to the State's revenue base in these areas. If you abolish clause 9(1)(a), we do not have a consumption tax in South Australia.

The Hon. A.J. REDFORD: It concerns me that it may prejudice South Australia's position *vis-a-vis* the High Court case. I appreciate and understand the Government's position that it will not release legal advice—nor should they in this context—but, in the context of what I have just said, I will ask this: has the Government sought legal advice on the prospects of success in the High Court from the Solicitor-General as to the effect of the change in this tax? Has it assured itself that, by taking this measure, it does not prejudice or undermine the State's position *vis-a-vis* the High Court?

The Hon. R.I. LUCAS: I am a great defender of the right for Parliament to debate any issue it wishes. There would be some people who might have the view that the debate we are having at the moment is prejudicing the State's position.

An honourable member interjecting:

The Hon. R.I. LUCAS: The Government has made a decision in relation to the legislation. The Treasurer and the Government, including the Attorney-General, have had detailed discussions and consideration in relation to the legislation that we have before us.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: And all the amendments but, in particular, this amendment, and the Government would not be proceeding with the legislation unless it believed it was in the best interests of South Australians for the variety of reasons that I have indicated over the past 24 hours. I rarely am as circumspect as I am in relation to this issue, and I think the Hon. Mr Redford will testify to that. As a non-lawyer I am choosing my words very carefully. I do not want to do anything in the Committee stage of this debate which might cause any grief to the Government's position. I feel that I cannot say much more to the honourable member on the public record than I have been able to do in response to his question.

The Hon. A.J. REDFORD: I understand the difficulty in which the Government and the Minister find themselves in responding to that: I am assured that the State's position has been properly and seriously considered, and I accept the Minister's assurance in that regard. It has been suggested that this amendment will make the cost of a consumption licence prohibitive. It has further been suggested to me that smokers may find ways to obtain cigarettes without a licence—for example, a group of smokers pooling funds to purchase one licence—and that this may encourage or cause a significant revenue loss and, in addition, create increased costs in relation to the administration and the issue of licences and the policing of licences.

The Hon. R.I. LUCAS: With regard to the first of the honourable member's questions, I am advised that it is not possible for a group of people to get together and purchase one consumption licence. The Commissioner of State Taxation and appropriate officers would not issue a consumption licence to a group of people: it would be issued to individuals. Given that answer, are there any remaining questions that require an answer?

The Hon. A.J. REDFORD: Does the Minister anticipate any revenue loss in relation to the administration of the issue and policing of licences?

The Hon. R.I. Lucas: Is that a consumption licence?

The Hon. A.J. REDFORD: Both. Are any policing issues involved?

The Hon. R.I. LUCAS: In relation to consumption licences, as I indicated in response to an earlier question, if this Bill were to go through as wished by the Government there is no anticipation that there would be a significant change in the number of consumption licences, so there is no anticipation of significant policing or administrative costs in relation to that. In relation to the other licensing aspects, it is broadly a continuation of the current situation so no significant changes are envisaged.

The Hon. ANNE LEVY: I do not think the Minister responded to my question as to how he justifies an increase of 330 per cent, which is far greater than the CPI, despite Government promises. Apart from the question of Governments breaking their promises and whether it is a core promise, a non-core promise and other such semantics, I think it is a serious question as to why the proposed increase in fee for this licence is over 330 per cent.

The Hon. R.I. LUCAS: I accept that my explanation might not be acceptable to the honourable member, but I did indicate earlier that the Government's defence or argument for this was that it could not be treated in the context of whether or not it was a CPI increase: it needed to be looked at within the context—

The Hon. Anne Levy: Like water!

The Hon. R.I. LUCAS: If you want to have a debate about water we can have a debate about water as well. What I am saying is that the Government needs, first, to protect the integrity of its revenue base and, secondly, it would not want to support a proposition—and neither do I believe or hope would a majority of members—of a scheme which might lead to significant numbers of South Australians being able to purchase tobacco products at a lower price, perhaps even a significantly lower price, than they currently can. That might not be an attitude shared by the Hon. Anne Levy—and I accept her right to have that view—but I suspect that the majority of members in this Chamber would not support a proposition that would allow significant numbers of South Australians potentially to purchase cigarettes at a significantly lower price than they can now.

The Hon. R.R. ROBERTS: I hope that that is not precisely what it is. For the first time we are getting some honesty into the debate. Let me clarify the Opposition's position. We have said from the start that we understand what is happening and the Minister has now explained it, although, as he said, in a quite circumspect way—and understandably so. What this Bill started out to do was to protect the State's revenue base, and we needed to do that because we all know about the court hearings in another place which will affect this. The Opposition understands that fully and we have never objected to the Government's having the right to collect the revenue which has been legislated and to which it is entitled at present.

That is fine: we understand that. What we have objected to is that in its avarice and mismanagement of other areas of government it has seen an opportunity to grab more of the pie and has dressed it up as being a health argument when it is about three things. First, it is about protecting the revenue base of this State—and we do not have a problem with that; we understand what that is about. What we have objected to is the tax grab off the backs of those people who are already being taxed heavily for engaging in a legal practice in South Australia. I do not think the Minister said that he was trying to stop South Australian smokers getting cheap cigarettes; what he meant—and there are two aspects—was that he does not want to see this loophole which will prevent the Government from collecting the appropriate revenue. I think that is what he meant, although he said that he wanted to stop them getting cheap cigarettes.

We have clearly stated our position and, for the first time, the Government is being honest with regard to protecting the tax revenue base. We understand that. However, we still object to the other base—but we have lost the principle of that, and I accept that. I am encouraged that we are now starting to get some honesty. I think that this will be determined in the next couple of minutes and we can move on.

The Hon. A.J. REDFORD: I am grateful to the Minister for the information that he gave in relation to the taxation gross receipts which currently are $210 million and are likely to be $215 million, which is an increase of some $5 million. Is the Minister able to explain to this place how that $5 million is made up? Is that $5 million calculated on the basis of existing consumption, and that is that, or is there a component which would indicate that people are likely to acquire or purchase their cigarettes from other States which will now have a lower tax base, and bring them into this State and, if so, what sort of money are we talking about here?

If I can explain it in simple terms, you may well budget on existing consumption for $6 million, and then know that, because more cigarettes will be bought interstate, you will only collect $5 million, so there is $1 million worth of trade lost interstate. In calculating that $5 million, what has the Government taken into account in the decreased consumption of cigarettes arising from the fact that there is an increase in payment for cigarettes?

The Hon. R.I. LUCAS: The advice that the Commissioner of Taxation has given me is that the differential of 2 to 5 percentage points that will exist between South Australia and some other States is not significant enough to cause a bootlegging problem. I think last night in response to one of the questions I placed on the *Hansard* record some more detailed advice in relation to that, and I would be happy to dust off that piece of paper and share it with the honourable member at a later stage. It is on the *Hansard* record late last night, indicating the considered view of the experts and the Government is that that differential is not significant enough to cause a bootlegging problem of any size between—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: I indicated last night that the advice was that the differential of 2 to 5 per cent we are talking about will not be significant enough to cause a significant bootlegging problem of the nature and type the honourable member is asking about. The honourable member is saying, all right, what will be the bootlegging problem, $5 million, $3 million or whatever. Our advice is it is not a significant issue at the moment because of the policing aspects that have been put into place in recent years. With these changes, the experts do not believe we will see a significant change. It needs to be a significantly higher differential than 2 to 5 percentage points to start even causing significant concerns about bootlegging between States.

The Hon. A.J. Redford: Are you prepared to summarise it as being so little as to be negligible?

The Hon. R.I. LUCAS: Yes, it would be fair to summarise it as minimal to negligible.

The Hon. A.J. REDFORD: As to the second part: the Government has said this will decrease consumption. Have you factored in that and, if so, how much?

The Hon. R.I. LUCAS: The Commissioner of State Taxation says, even with the best experts in the world, this is not a precise science in terms of estimating consumption habits and patterns for smokers. It is not just that issue which has to be factored in. It is also the issue of whether there will be a switch between high tar, medium tar and low tar in terms of the consumption of tobacco product by South Australians. It is not a precise science.

The Commissioner's people have put together their very best estimate which the Treasurer has indicated is potentially of the order of $5 million, when you look at all the variables. You cannot just pick one variable out and say how much that contributes to the net difference, how much this other variable of high tar, medium tar and low tar contributes, and the effect of other variables such as the number of young people taking up smoking and the number of old people dying. The very best estimate putting all of it together is that it will be of the order of $5 million. As the Treasurer said, if everyone moves to low tar and there is no net increase, the Treasurer will be very happy, because that will be a most significant health reform, and that reform is one of the reasons the Government has introduced the legislation.

The Hon. SANDRA KANCK: The Minister was most eloquent some five or 10 minutes ago in his attempt to convince me to support the amendment. In fact, he did not need to be eloquent at all, because I had already made up my mind to support it, but it was worthwhile. The performance was wonderful—it brought a tear to my eye. I do not need any convincing that this is a health measure. Having received that legal opinion from Rothmans, I was really quite panicked. When I saw this raft of amendments appear yesterday, I thought this is what is likely to be able to address it. Anything that will make it more difficult to buy cigarettes cheaply is a move I will support because pricing is one of the signals given to smokers, and it is one of the effective means of helping people to reduce smoking, simply because they can no longer afford the cigarettes. This is a move that will make it harder for them to buy cheap cigarettes and we will be supporting it.

The Hon. A.J. REDFORD: I must say I am at a loss to understand how the Government is able to estimate $5 million as increased revenue yet is completely unable to assess what it might in any way achieve in terms of a reduction in monetary terms by the disincentive to smoke created by this new tax regime. Is the Minister saying that that simply cannot be done? Is the Minister saying that no quantification in monetary terms can be put on the Government's expectation of reduced consumption arising from this new tax regime?

The Hon. R.I. LUCAS: As much as I would love to open the mathematical entrails of State taxation for the honourable member, the Parliament and for all to see—

The Hon. A.J. Redford: Deal with the $5 million. That's your problem.

The Hon. R.I. LUCAS: That is not my problem. As much as I would like to open the entrails of how it is all calculated, I cannot, and I am not prepared to do so. There is a broad estimate, which the best experts in the department have produced, of a $5 million net effect. As I indicated to the honourable member earlier, there is a whole series of variables which impact on the estimate of the level of revenue that will be collected under the new regime. It is not just the one factor that the honourable member referred to. There are the other factors I referred to earlier in my response.

All we can ask of the experts is to put it all together and come up with the best estimate they can. It is not just in this area but in all areas—stamp duty, revenue and a whole range of other areas. The experts put it together and came up with their best estimate, and that is what is included in the budget papers. We do not reveal, nor does the Treasurer, all the detailed mathematical calculations as to how the particular estimate is arrived at.

In essence, Governments live or die to a degree through the accuracy of their experts in this area. We have seen in the Commonwealth arena estimates that have been significantly out of kilter. Thankfully, in the State arena we have not seen that significant extent of difference in terms of estimation. If the honourable member wants me to concede that it is not possible to be precise in relation to all of these issues, I am happy to do so. If the honourable member wants me to say that the Government is not prepared to reveal all the detail of how the calculation is made, I am prepared to do that also. The Government is not in a position to quantify or put on the public record the different variables in that total calculation. On behalf of the Government I am able to say that the best estimate of the experts is $5 million, taking into account not only the fact that the honourable member mentioned but all other factors I have mentioned and probably others as well.

The Hon. A.J. REDFORD: I am conscious of the fact that I am in a Parliament and not a court, so I will not take the matter further.

Amendments carried; clause as amended passed.

Clauses 11 to 37 passed.

Clause 38—'Sale of tobacco products to children.'

The Hon. SANDRA KANCK: I move:

Page 20—

After line 14—Insert the following expiation provision after the penalty provision:

Expiation fee: $310.

After line 17—Insert the following expiation provision after the penalty provision:

Expiation fee: $310.

After line 17—Insert new subclause as follows:

(2A) An offence against subsection (1) or (2) is not expiable if the child referred to in that subsection was less than 13 years of age at the time when the offence is alleged to have been committed.

These amendments are all related. One of the questions I asked in my second reading speech revealed that only one prosecution had been launched since 1988 in regard to the sale of tobacco products to minors, which I find most concerning. I am excluding 1988 and 1997 so we are talking eight years and one prosecution has been launched. There have been 55 warnings, we are told, which works out to be less than seven warnings per annum. I find that paucity of warnings and prosecutions quite appalling when one considers the facts. A survey was done among school children in South Australia in 1993 that showed that in South Australia there were 22 975 children aged between 12 and 17 years who were smoking. If that number of children are smoking they are getting their cigarettes from somewhere. According to Stephen Woodward, quoting from a document that I have here:

A recent national survey of school children's smoking behaviour found that over 20 per cent of 12-year-old regular smokers said that they purchased their own cigarettes, indicating flagrant breaches of State and territorial legislation. A controlled study in Adelaide showed that in 45 per cent of cases children aged between 12 and 14 succeeded in obtaining cigarettes from retail outlets. The same studies showed that the children succeeded in all attempts to obtain cigarettes from vending machines.

Yet, in an eight year period we have had one prosecution and 55 warnings. The system we have at the moment is not working. The $5 000 fine that we are talking of here is useless. I am proposing that an expiation fee should be available to be used as a means of encouraging greater policing. My proposal, addressed in other amendments I have on file, is that local government be the body responsible for issuing the expiation fees, which I propose to be $310. With local government being able to keep that $310 each time it apprehended a shop owner selling tobacco products to underage people, that would be a real incentive for this to be policed. The figures of one prosecution in eight years and 55 warnings shows that it is almost not being policed at all. Having an expiation fee is an important contributor to actually having it policed. However, I have one rider, namely, that the expiation fee would not be available if the tobacco products were sold to any child who was less than 13 years of age. If this is a health Bill this is an amendment that ought to be strongly supported by the Government, as it is claiming that this is a health Bill.

The Hon. R.I. LUCAS: This is the first of a series of consequential amendments that seeks to make the sale of tobacco to minors an expiable offence, except where the child is less than 12 years of age when the offence was alleged to have been committed. I am advised that, whilst the Government is sympathetic to the intentions of the honourable member in relation to this—and I understand the views she has put—the Government nevertheless believes that an expiation fee of $310, as opposed to the current monetary penalty of $5 000, might be construed as diminishing the seriousness of the offence and might send the wrong message to retailers and the community generally.

As the Act stands, the penalty for second offences includes the loss of licence to underscore the seriousness of the offence. Expiation potentially would undermine that principle. I understand the honourable member's position. She put it clearly. There has been one prosecution and 55 warnings. I presume that if that person has been prosecuted once and found guilty again, that person will be liable for a loss of licence. There might not have been as many prosecuted as the honourable member would wish, but potentially the penalty for the second offence can be quite serious in terms of a loss of licence and the scheme the honourable member is envisaging would not allow that sort of graduation of offences.

I suspect that on reflection the honourable member may think that after a few expiation fees, if they have been caught out a few times, they may think twice about it as loss of licence could result. The Minister for Health understands the honourable member's position, but does not believe that he can support the amendments.

The Hon. R.R. ROBERTS: The Opposition sees what the Hon. Sandra Kanck is trying to get at. I will not go over what the Minister has said, but in many cases there are extenuating circumstances. The courts may find that there has been a technical breach and may wish to impose something lower than the expiation fee and may believe that it is serious enough that it ought to attract a far higher fee, but not $5 000. The argument for this is also reduced when we consider the fact that there has been only one prosecution and 55 warnings.

As to the other proposition that councils be involved, to administer an inspectorate of this nature would probably require three prosecutions a week to pay for the inspector and with only one prosecution in the past five years we would have some zealot out there hounding everyone. Some people might argue that it is a good thing because we would have stopped smoking, but it has to be practical as well as principled and we will not be supporting this raft of amendments.

The Hon. SANDRA KANCK: I find the arguments of both the Government and the Opposition quite pathetic.

Members interjecting:

The Hon. SANDRA KANCK: They are pathetic and the AMA will not be impressed one iota. Is this a health Bill or not a health Bill?

Members interjecting:

The CHAIRMAN: Order!

The Hon. SANDRA KANCK: I said in my second reading speech that the Government was arguing it was a health Bill and the Opposition argued it was a tax Bill, and I said I would treat it as a health Bill until proven otherwise. The fact that the Government is not accepting such amendments, which will do something to increase these appallingly low rates of policing, shows that the Government is not putting its money where its mouth is and I ask the Government to reconsider it. Why are there such low rates? Why in eight years have we had only one prosecution and 55 warnings? What is the excuse?

The Hon. R.I. LUCAS: My advice is that these are difficult issues to prove, given that they involve children, including some of a relatively young age. Even under the honourable member's scheme of expiation notices—in a Democrat world where that would be introduced—there would still be those difficulties in terms of proof.

Members interjecting:

The Hon. R.I. LUCAS: I am saying that irrespective of the number of inspectors or whether local government does it, as the honourable member is talking about, there is the difficult issue of proof. I presume your case is strongest when you have video evidence or someone has observed what has occurred. But what about if someone is smoking outside and everyone is denying it, and saying that they have got it from a certain place? I am sure the honourable member has more than a passing association with young people and the way they are able to explain their situation when they might perhaps be caught out smoking or misbehaving.

The Hon. Anne Levy: Are you having trouble with your kids?

The Hon. R.I. LUCAS: No, I am talking about young people generally and it is sometimes difficult. If everyone denies drinking, smoking or whatever, you have to be in a position to prove it. If the retailer is not going to say he or she is guilty and the young person denies purchasing them and says that an older brother got them or that they found a packet in the street or that Dad or Mum left them, then the issue of proof is difficult. I understand where the honourable member is coming from, but even if you have expiations it will not be as simple as the honourable member indicates. We have expiation offences with speeding; we have speeding camera devices and even then we have interminable arguments. With red light cameras we have camera evidence and again arguments. We cannot have cameras and speed detection devices in relation to the purchase of tobacco products. Yes, it is not as significant in terms of convictions and warnings as the Minister for Health and the commission would want and it is a problem. We will never have an army of people policing retail outlets and it will still be difficult even with a regime of expiation offences if the honourable member wants to get to her desired situation.

The Hon. SANDRA KANCK: I find it amazing that we can have speed and red light cameras that can detect people speeding or running red lights which are serious offences but we have other serious offences. We have 23 000 under-age children smoking in South Australia and we cannot find a way to detect them. What is the Government going to do? If it is not going to accept my amendments, what is it going to do to upgrade this situation and ensure proper inspection and policing occur?

The Hon. R.I. LUCAS: I am not privy to all the policy initiatives of the Minister for Health but I understand that, should money be available, the primary focus will be to try to tackle the problem at the root cause. The honourable member talks about 23 000 young people smoking and it is a question of trying to convince those young people not to smoke. The point I am trying to make to the honourable member—obviously unsuccessfully—is that if 23 000 young people want to smoke, the vast majority of those 23 000 young people will find a way to smoke, whether or not we have expiation offences or not.

The Hon. Sandra Kanck: So you give up, do you?

The Hon. R.I. LUCAS: No. I presume that what the Minister for Health is saying is that you have to tackle it at the root cause. Why are young people smoking? You have to tackle it through education programs and a range of other initiatives nationally and in this State as well to convince young people to stop smoking. Whether it be smoking cigarettes, marijuana, using illicit substances or drinking alcohol, you can do so much with policing but the reality is that if you stop them drinking in hotels, they can drink in the homes of friends and in halls that they hire, or in backyards or open parks. If young people want to pursue smoking, the vast majority of them will hop over the current restrictions, as clear as they are. They will hop over the expiation offences of the honourable member as well. The honourable member may well have the view that expiation offences would prosecute more retailers, but the proposition I am putting to her is that we are still likely to see about 23 000 young people smoking if that is the only change instituted. If you are going to tackle young people smoking, you have to tackle the root cause.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: I am told that the Minister has said as part of his total package that enforcement of the provision relating to the sale of tobacco is an area to which the Government intends to give priority. I do not know how he intends to do that. He has provided that by way of written advice to me as part of a total Government response to the issue of young people smoking.

My personal view is that we must expend money, effort and time on education programs. If you gave me as a member—and I am not the Minister for Health—$200 000, I would rather spend it on an education program than on another five enforcement officers to penalise retailers. If those five ping another 200 retailers, those 23 000 young people will still get their smokes somehow or other. That is my personal view—it is not the view of the Government—which is based on my personal experience with many young people.

Amendments carried.

The Hon. SANDRA KANCK: I move:

Page 20, lines 31 to 35—

Page 21, lines 1 to 16—Leave out subclauses (5) and (6) and insert new subclauses as follows:

(5) A court that convicts a person of an offence against subsection (1) or (2) must disqualify the person from applying for or holding a tobacco merchant's licence during such period (not exceeding four years) as the court orders if—

(a) the child referred to in subsection (1) or (2) was less than 13 years of age at the time when the offence was committed; or

(b) the child referred to in subsection (1) or (2) was 13 or more years of age at the time when the offence was committed and the person has, within the immediately preceding three years, been previously convicted of an offence against subsection (1) or (2) of this section or section 11(1) or (2) of the Tobacco Products (Control) Act 1986; or

(c) the person has previously been disqualified under this section or section 11(5) or (6) of the Tobacco Products (Control) Act 1986.

(6) If a court imposes a disqualification under subsection (5) on a person who is a member of a group of tobacco merchants—

(a) the licence held on behalf of the group is cancelled and a person cannot hold a licence on behalf of a group that includes the convicted person during the period of his or her disqualification; and

(b) if, during the period of the disqualification, a person who is a member of the group of which the convicted person was a member at the time of the offence that gave rise to the disqualification sells or offers to sell tobacco products from the premises where the offence occurred, the person is guilty of an offence and liable to a fine not exceeding $20 000.

This amendment is an attempt to ensure that when this one person in eight years is prosecuted the book is thrown at that person. As it is only one person in eight years, they need to be made a thorough example of. Consequently, as a result of my amendment, instead of allowing the court leeway, the court would have to disqualify the person involved.

Also, in respect of a group of tobacco merchants, I seek to remove the current clause 6, because I believe that that clause treats a group more favourably than an individual. I ran that idea past a few people, and they agreed that that was the situation. As subclause (5) is currently worded, the retailer's licence would be disqualified. The retailer would then have to go through the process of reapplying for their licence at the end of the disqualification period and, at that point, the 'fit and proper person' criterion would have to be applied to them.

On the other hand, as the clause is currently worded, a group merchant would not have to go through that procedure. As I read this clause, it provides that this person would not be able to trade in tobacco products during the period for which the court had disqualified them. Although it would be an effective disqualification, they would not actually be disqualified. They simply would not be able to trade in those products for that period of time, and when that period had elapsed they would be able to go straight back into trading. They would not have to go through the process of reapplying for a licence and perhaps having to prove that they were a fit and proper person.

I not only believe that the courts must take this action but I also propose that the period of time currently provided under the Act as 'not exceeding six months' for disqualification or not being able to trade in the product should be increased to four years. My amendment is that the period not exceed four years. It is unlikely that the court would impose disqualification for the full period of four years, but I feel that a period of up to six months does not give the clear message that Parliament believes that the sale of tobacco products to under-aged people is totally unacceptable. Increasing that period of time to a maximum of four years gives a clear message from this Parliament to the courts of how bad we think this practice is.

The Hon. R.I. LUCAS: I had hoped that the Attorney-General would be able to speak on this provision because he has some strong views in opposition to this package of amendments. The shortest summary that I can give the honourable member is that the Government opposes the package of amendments because, as the Attorney-General has indicated on a number of occasions when similar propositions have come before the Parliament, he is a strong believer in the discretion of the courts to cover the range of circumstances that might be presented. There is a view that what the honourable member seeks to do by way of this amendment significantly reduces the discretion of the courts to make fair and balanced judgments in respect of the issues that come before them.

I think the honourable member's major concern—which I understand—is that not enough cases are coming before the courts. As she has indicated, there has been only one prosecution and one successful conviction with the 55 warnings. The honourable member sought to toughen up the matter from her viewpoint by way of these further amendments. I am unable to offer a more comprehensive explanation of the Government's opposition to the honourable member's amendments than that which I have been able to give in this brief contribution.

The Hon. R.R. ROBERTS: The Opposition does not support this amendment, either.

The Hon. Sandra Kanck interjecting:

The Hon. R.R. ROBERTS: Well, if you had been more consistent, we would not have had this problem. With reference to consistency, the honourable member talks about flexibility, but she actually says that she wants to change the words 'a court that convicts a person of an offence against subsection (1) or (2) may disqualify' to 'must disqualify'. In many of these cases, we are talking about small business people who are fulfilling a number of functions, including keeping a record of class A, class B, class C and class D cigarettes. They are virtually collecting tax, and they are tightly controlled, as far as that can be done, in how they present the cigarettes, etc.

The Hon. Sandra Kanck says that the court 'must' do this, but when we talk about penalties she proposes a fine not exceeding $20 000. The honourable member says that she is maintaining flexibility. The flexibility is already there. There is an inspectorate that lays down conditions and penalties for people who commit breaches, and the provisions allow for situations where entrapment can be a part of the proposition.

However, if one of these very flexible children somehow manages to trick or deceive a small (or big) businessperson into getting a packet of cigarettes, all those circumstances can be taken into account and an appropriate penalty applied. However, if we adopt the Hon. Sandra Kanck's proposition, no matter what the circumstances we 'must' disqualify. Enough encumbrances and balls and chains are being placed on small businesses in South Australia. I do not mind that if it is appropriate, but I am advised by my colleague in another place that we will not support this amendment, and I am happy with that.

The Hon. A.J. REDFORD: What concerns me, too, is the grouping provision in proposed subclause (6). If we look at a company like Smokemart, although the Hon. Sandra Kanck might believe that they are drug pedlars, they are a South Australian company which employs a lot of people and which has in fact expanded interstate. Indeed, they are one of—

The Hon. Sandra Kanck interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and says that they are the equivalent of smuggling heroin.

The Hon. SANDRA KANCK: No, I said smuggling heroin employs people—it keeps people in jobs.

The Hon. A.J. REDFORD: I am not sure whether the honourable member is seeking to suggest that those fine people who run Smokemart are in the same category as heroin smugglers. If she is, I would thoroughly reject that. However, it seems to me that where you have a substantial enterprise like that, you may have one employee who makes a mistake in one shop and you bring the whole enterprise to a close, putting people out of work. And all that would happen because of one—whether it be deliberate or inadvertent—error.

The Hon. R.R. Roberts interjecting:

The Hon. A.J. REDFORD: As the Hon. Rob Roberts interjects, you must do it. In fact, I can imagine if enforcement is beefed up, as the Minister has indicated, that all sorts of tragic consequences will be visited upon some quite substantial enterprises through no fault of their own and, indeed, on small enterprises who are struggling. It was very refreshing to hear the Hon. Ron Roberts talk about the onerous responsibility imposed on small business, particularly delicatessens, to comply with various Government requirements. It is pleasing to see that he understands and recognises that.

Amendment negatived; clause passed.

Clause 39 passed.

Clause 40—'Certain advertising prohibited.'

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

Page 22, lines 18 to 20—Leave out paragraph (e).

My colleague in another place, Ms Lea Stevens, raised this matter during the Committee stage, as I understand it, with the Treasurer in another place and pointed out that, basically, this clause is redundant as the Federal Tobacco Advertising Prohibition Act 1992 now covers advertising in respect of cricket, unless an exemption is given by the Federal Minister for Health under section 18 of that Act. The Treasurer undertook to look at this and report back. This paragraph is still, in our view, irrelevant and therefore we have moved to have it deleted.

The Hon. R.I. LUCAS: My advice is that the Government is prepared to accept the amendment. The current provisions were enacted prior to the Commonwealth Tobacco Advertising Prohibition Act 1992. They sought to exempt various specified events for which contracts were in place from general advertising and sponsorship prohibition. The subclause is largely redundant now that the Commonwealth Tobacco Advertising Prohibition Act 1992 applies. Advertising in connection with international cricket is prohibited unless an exemption is given by the Commonwealth Minister for Health.

Amendment carried; clause as amended passed.

Clauses 41 to 46 passed.

[Sitting suspended from 6.1 to 7.45 p.m.]

Clause 47—'Smoking in enclosed public dining or cafe areas.'

The Hon. R.I. LUCAS: I move:

Page 24, line 13—After 'lounge' insert 'area'.

The definition of 'area' is a drafting amendment to clarify that this can mean an area within a separately enclosed room.

It relates to the later amendment to subclause (3) which inserts a power for the Minister to exempt a bar or lounge area—whether it be the whole or part of an enclosed area. The addition of 'rather than meals' is to make it even clearer that bars or lounges for the purposes of this section are primarily for drinking and not for dining.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 24, line 14—After 'drinks' insert 'rather than meals'.

I have given the explanation for this amendment. It is to make it clearer that bars or lounges for the purposes of this section are primarily for drinking and not for dining.

The Hon. SANDRA KANCK: I am rather interested in this package of clauses, particularly in the light of the *Advertiser* article yesterday on page 1, and also today's Editorial in the *Advertiser* which presents it as the Government's having backed down to pressure from its backbench. When I received the amendments, I initially thought it was in response to the representations that I had made to the Hon. Mr Lucas and Dr Armitage. I thought I was pleased with them, but when I saw the story in yesterday's *Advertiser* I was quite shocked. It appeared that the Government had gone further than I had intended in the conversations I had with the two Ministers. Could the Minister comment on the accuracy of both the *Advertiser* article and the *Advertiser* editorial?

The Hon. R.I. LUCAS: Perhaps not at length because I did refer to this in the second reading. As I indicated, there were some sections of the media which had not given a fair portrayal of the passage of this Bill through the Parliament. I did attribute, rightly and properly, the background to the Government's moving these amendments. The Hon. Sandra Kanck, in a meeting with the Minister and me, did highlight some of the problems with the original drafting of the legislation. I will not go through the Hilton Hotel, Hyatt and Jarmers Restaurant examples again, but it was as a result of that meeting some time ago that the Minister for Health, on behalf of the Government, set about working out how the Government might be able to amend the legislation to meet the difficulties that the member had properly highlighted.

As I said in the second reading, the first package of amendments had problems which the honourable member highlighted, and this package of amendments will still have problems in terms of definition and how they operate. In this area, there can be no perfect set of words which will make it absolutely crystal clear and which will be supported by everyone, and I defy anyone to say otherwise. There will be conflicting and differing views. It is a balance. The Minister for Health and the Government have tried to listen to the arguments of the Hon. Sandra Kanck and others to achieve the correct balance. It is certainly my view and the Minister for Health's view that the front page story in the *Advertiser* was an unfair reflection of what was being achieved here.

In one of the paragraphs it said that smoking would still be allowed wherever dining was to occur. That is clearly not correct. In the original Bill, and even with these amendments, there is a significant range of circumstances where there is to be no smoking at all in dining areas. There are other areas where the exemption provisions could come into play depending on certain circumstances.

It is a difficult piece of legislation, and some of the media are struggling to understand what is going on. Yesterday, one journalist wanted to know whether there was a split between me and the Minister for Health. When I asked him what he was talking about, he said that the Minister for Health had moved the legislation two weeks ago and here I was significantly watering it down. I had to explain that I was acting for the Minister for Health, that I am handling the Bill for him in this Chamber and implementing the changes he had negotiated over the previous weeks. The level of understanding of this complex area has been limited in some sections of the media, and there have been inaccurate reflections of the legislation.

The Hon. A.J. REDFORD: Can the Minister explain in more detail what is meant by an area primarily and predominantly used for the consumption of alcoholic drinks rather than meals? Can he give me some examples?

The Hon. R.I. LUCAS: Yes, the local front bar of the hotel at which the Hon. Angus Redford occasionally has a social drink would be the perfect example of what is meant. It is primarily and predominantly used for the consumption of alcoholic drinks. There can be the occasional consumption of food there. In certain circumstances the other package of amendments, as the honourable member knows, will allow what we know as counter meals to be consumed, but it is primarily there for the consumption of alcoholic drinks. It is a bar or a lounge, it is a front bar, perhaps a saloon lounge, or something along those lines.

The Hon. A.J. REDFORD: Let me give the Minister an example. I am sure that the Minister would be familiar with the Tattersalls Club, where one end of the room has a bar.

The Hon. R.I. Lucas: I don't go to clubs.

The Hon. A.J. REDFORD: Then I will explain it in some detail. At one end of the room there is a bar, there are a couple of pillars and then there is a dining area. Can any part of that area be described as a bar or lounge area, and in what circumstances?

The Hon. R.I. LUCAS: When we get to clause 47, page 25, after line 9, and other provisions, we will be looking at a series of amendments under the broad heading of possible exemptions under the power of the Minister for Health, where in one large enclosed area it will be possible to have a bar or lounge at one end of the room and a dining area at the other end of the room. The potential for exemptions under the amendments that will be moved in relation to the legislation is different from the original provisions within the legislation where that might not have been possible. To answer the honourable member's question in relation to the Tattersalls Club, as he has described it to me, it would be possible to have a bar or a lounge at one end and a dining room at another.

The Hon. A.J. REDFORD: My questions are pertinent to the later amendments, so it is appropriate that I ask them now. If the subsequent amendments are successful, will the Tattersalls Club have to apply for an exemption for the whole area, part of the area, or what position will it be in?

The Hon. R.I. LUCAS: The legislation is to prevent smoking in areas where people sit down to dine, so that will remain. Exemptions will pertain to the bar or lounge areas.

The Hon. A.J. REDFORD: Will they have to apply for that exemption?

The Hon. R.I. LUCAS: That is what I have said, yes. They will have to apply for the exemption for the bar or lounge area. In relation to a dining area, people cannot smoke there.

The Hon. A.J. REDFORD: The position in so far as the Tattersalls Club is concerned is that, in the area where there are tables and food is served, there is no smoking whatsoever.

The Hon. R.I. Lucas: If that is a dining room, yes.

The Hon. A.J. REDFORD: In the area near the bar, there is a possibility of an exemption.

The Hon. R.I. Lucas: That's right.

The Hon. A.J. REDFORD: Let us look at an example such as the South Adelaide Football Club, where there is a bar at one end in a corner, and then an open room, probably larger than the Chamber that we are in, and at the back of that room there are tables and chairs. In that circumstance, will the South Adelaide Football Club have to apply for an exemption from the Minister?

The Hon. R.I. Lucas: Is the back area a dining area?

The Hon. A.J. REDFORD: Yes.

The Hon. R.I. LUCAS: There are two possibilities. As the honourable member will know, there is the situation where smoking is not allowed when meals are being consumed in the area if it is a single enclosed area, which was the circumstance the honourable member explained, or as with the Tattersalls Club, the Hilton or Hyatt examples about which the honourable member spoke earlier, they would seek an exemption.

The Hon. CAROLINE SCHAEFER: As I mentioned in my second reading speech, this issue is of some interest to me also. I hope I am wrong, but my understanding is that, if the amendment to provide for the seeking of exemptions is carried, these places, be they clubs or major restaurants that seek an exemption—and the Minister indicated that they could either choose to have no smoking while meals are being served or seek an exemption—will no longer have the option for no smoking while meals are being served. However, in either case, as I understand it, they would have to comply with very stringent air-conditioning rules, which, as I have mentioned before, would be extraordinarily expensive.

The Hon. R.I. LUCAS: In relation to the option which says 'no smoking when you are serving meals in a club or a large enclosed space', they do not have to have air-conditioning. The question from the honourable member was: do they have to have air-conditioning in both options. The answer is 'No.' If they want to operate under a scenario as a country club, for example, where they do not allow smoking whilst meals are being served, then they do not have to have the air-conditioning requirement. As a club, if they wish to stipulate that meals will be served between certain hours and that there would be no smoking during those hours and even if they said they were serving meals for 24 hours a day—not that many country clubs would do that—then there would be no smoking during all the time meals were either available or being consumed in the area. The answer is 'No,' in that scenario they would not require air-conditioning.

The Hon. A.J. REDFORD: The Unley on Clyde Hotel has a single enclosed area with dining facilities on a mezzanine floor and with bar facilities on the ground floor. However, although quite separate, it is still in one single enclosed area. In what areas can smoking occur without the need for seeking an exemption and in what areas can smoking occur if an exemption is sought and granted?

The Hon. R.I. LUCAS: I am not an expert on the Unley on Clyde, but the honourable member can clarify the circumstances of the Unley on Clyde for me. If it has two or more separate enclosed public areas used for the consumption of meals within licensed premises, other than a licensed restaurant, one and only one of those areas that is a bar and a lounge can in effect be nominated by the licensee as a smoking area. If there is only one enclosed public area rather than two or more, we go back to the same circumstances we have been talking about with all the other examples, such as the Tattersalls Club, the Cobdogla footy club and the South Adelaide Football Club. You have one enclosed area, and the same set of circumstances would apply.

The Hon. A.J. REDFORD: I am describing one single enclosed area with a mezzanine floor that is open—it is a suspended floor that you can see. The dining facilities are on the mezzanine floor and bar facilities are on the ground floor—it is wholly and solely bar facilities. It is one area where you can throw rocks at each other without breaking windows, but it is quite separate and distinct. Can smoking occur in the bar area and in what circumstances? By that, is it necessary for the Unley on Clyde to apply for an exemption in the bar area?

The Hon. R.I. LUCAS: The answer is exactly the same as for the Tattersalls Club and the South Adelaide footy club examples, if it is as described. I want to be cautious here. The honourable member is using names of particular clubs and establishments. I am relying on the honourable member's description of the circumstances. Therefore, I do not want licensees to say that the Minister has said the Unley on Clyde is or is not allowed to do this or that. I am relying on the honourable member's description of the circumstances, and I ask the honourable member to accept that. In the circumstances as he has outlined them, they would have to seek an exemption for smoking to occur in that particular circumstance, because it is the one enclosed public area.

The Hon. A.J. REDFORD: Perhaps if I can just explain the layout of the Snake Charmer, which holds a restaurant licence. It has three areas, all on the same floor, and they are connected via archways. Food is served in the two back rooms, and in the front room is an entrance foyer, a reception area and a waiting area. No food is served in that area. Can smoking occur in that reception area? If not, can they apply for an exemption in that regard?

The Hon. R.I. LUCAS: I need to ask the honourable member: are the areas closed off from each other or is it one open enclosed area?

The Hon. A.J. REDFORD: It is one open area with archways. There is one dining area, another dining area, with two open archways, and a front area where no food or alcohol is served. Can smoking occur in that area?

The Hon. R.I. LUCAS: This is where we will be relying on the lawyers in the end, and the lawyers will be delighted. I draw the honourable member's attention to the definition in the Bill. 'Enclosed area' means an area or place that is, except for doorways, passageways and internal wall openings, completely or substantially enclosed by solid permanent ceiling or roof and solid permanent walls or windows, whether the ceiling, roof, walls or windows are fixed or moveable and open or closed. The legal advice available to me indicates that, if we are talking about an archway that is not too much bigger than two healthy people walking through and it is substantially enclosed, it may well not be one enclosed area: it may well be defined to be three separate enclosed areas.

If it is defined eventually as three separate enclosed areas, it would be similar to the Jarmers example I have cited in the reading explanation. There could be a designated dining area at one end of a restaurant and a separate bar, lounge and smoking area at another end. In those circumstances, if there are three separate enclosed areas such as at Jarmers, where there are two, the front area could be designated for smoking in a reception, bar and lounge type of arrangement, and the back area could be a area, where there is no smoking. That is the Jarmers type of example. It will depend on the defini-

tion in the final interpretation whether it is three separate enclosed areas because the archway is such that it is substantially enclosed, or whether it is determined to be one big enclosed area, as opposed to three.

The Hon. A.J. REDFORD: I will give an example that even the Minister would understand on this occasion. We will talk about the 'Botany Bay' area of Parliament House. It is an area where food is served and alcoholic and other soft drinks can be purchased. I want the Minister to assume that we are talking about a set-up outside Parliament, because special rules apply here. There is also what I would describe as a 'vergola', which is an area that is generally open but on certain occasions such as when it rains it can be closed. Is one able to smoke in that area that I described? If not, can the proprietor of such an area apply for an exemption and, if so, under what circumstances would the Minister be likely to grant such an exemption?

The Hon. R.I. LUCAS: Having been around this place for a while, I thought someone might ask me a question about Botany Bay. The advice which I have been given and which I have had for a few days is that this legislation does not apply to the Parliament. So it will not have to come into play at all.

The Hon. A.J. REDFORD: I think the Minister missed what I said. I suggested that the Minister assume that it is not covered by this special privilege, an exemption that parliamentarians seem to assume for themselves, and that it is outside the Parliament. In a similar circumstance where you can open and close the ceiling, can a person smoke in that area when the ceiling is open and, if not, why not?

The Hon. R.I. LUCAS: My advice is that if it is a moveable roof it is still treated as an enclosed area, even if you have moved back the roof.

The Hon. A.J. REDFORD: Let me give the Minister another example. I am not sure whether the Minister has been there because I am not sure what the Minister's habits are, but I refer to the beer garden at the British Hotel. Is the Minister familiar with that?

The Hon. R.I. Lucas: A long time ago.

The Hon. A.J. REDFORD: Perhaps I should describe it, for the purpose of the *Hansard* record and for the proprietors of the British Hotel, should they be interested enough to read the *Hansard*. In that area there is a courtyard with relatively high walls and a servery, a bar and tables and chairs, and then there are vines that virtually cover the ceiling, but you can still peek through and in a heavy shower you can get wet relatively quickly and in a light shower you do not get wet. Is that an enclosed area within the definition set out in section 47(1)?

The Hon. R.I. LUCAS: Our legal advice says that that is not enclosed.

The Hon. A.J. Redford: Even in full leaf?

The Hon. R.I. LUCAS: I understand in full leaf, partial leaf or no leaf.

The Hon. CAROLINE SCHAEFER: I refer to a question I asked earlier and to subclause (4) on page 25 of the Bill, which reads:

> If licensed premises (other than licensed restaurants) consist of or include only a single enclosed public area for the consumption of alcoholic drinks and meals are available the area, a person must not smoke in the area while meals are available or being consumed in the area.

The Minister advised me that there would be the option of using that clause or an exemption, but the Minister's amendments provide: clause 47, page 25, lines 15 to 25—Leave out paragraph (e) and subclauses (4) and (5). If that amendment passes, subclause (4) will no longer exist. So there will be no option.

The Hon. R.I. LUCAS: My advice is that it will be replaced by new subclause (3)(ac).

The Hon. A.J. REDFORD: I will provide an example of a place that I have not been to, and I am relying on a description given to me. The proprietors of the Eureka Tavern at Salisbury have spent a considerable sum of money and made a significant investment. They have a separate front bar where meals are available, they have a separate enclosed dining room—

The Hon. R.I. Lucas: That serves counter meals.

The Hon. A.J. REDFORD: What is the Minister's understanding of 'counter meal', because no definition of a counter meal is contained within this clause?

The Hon. R.I. LUCAS: It is not defined in the legislation. Going on years of experience of counter meals, I recognise a counter meal as when you go to the front bar and you might get a knife and fork with a bit of tissue paper wrapped around it, a salt and pepper shaker, a meal that is delivered over the counter to you and you either eat it at the counter—

The Hon. P. Holloway: Do you drink as well?

The Hon. R.I. LUCAS: Coca-Cola—or you might sit down at a table—

The Hon. A.J. Redford: Adjacent to the front bar.

The Hon. R.I. LUCAS: —adjacent to the front bar, and there is probably no tablecloth or anything along those lines. It has none of the fineries of the dining section of the establishment.

The Hon. J.C. Irwin: But the food's the same.

The Hon. R.I. LUCAS: Generally cheaper, too, and just as enjoyable. I am advised that, under the Government's proposed scheme, whether you have what I understand and what most people would understand as a counter meal, or whether you have a sit down meal, it is possible for the licensee to designate that as a front bar smoking area. As long as it is primarily and predominantly used for the consumption of alcoholic drinks, you can still have food and sit down and eat at a table, stand up and eat, or eat at the counter if you want to—

The Hon. A.J. Redford: And smoke at the same time.

The Hon. R.I. LUCAS: —and smoke at the same time.

The Hon. A.J. Redford: Without the need for any exemption?

The Hon. R.I. LUCAS: That is right.

The Hon. A.J. REDFORD: Will the Minister take me through that?

The Hon. R.I. LUCAS: First, it depends on the definition of 'bar or lounge'. It then depends on clause 47(3)(a).

The Hon. A.J. REDFORD: At the Eureka Tavern there is a separate front bar where meals are available.

The CHAIRMAN: Order! I am not sure that this is assisting in the principle of what we are after in this Bill. A lot of those questions are very specific and they ought to be asked of somebody outside this Council who is quite well briefed on them. I am not casting aspersions on the Minister's ability to do this. I am saying that it is getting away from the principle of what the clause and the Bill are about. Individual cases such as this are very difficult, and we could go on all night dealing with them. However, it will not have any effect on the principle regarding how we are trying to amend this clause.

The Hon. R.I. LUCAS: Mr Chairman, I always treat your advice and rulings with great respect. This is the only

opportunity for the Hon. Angus Redford and other members to put questions to me. I am comfortable; I am settled in for the night. It gives members the opportunity to put questions to me, and I am the next best thing they have before the legislation passes, whether they like it or not, in terms of being briefed. I understand what you, Mr Chairman, are saying, but regarding the processing of legislation, we only had it here for second reading debate on Tuesday, which was two days ago. This Chamber has been most amenable in trying to process the legislation, hopefully before the end of the week and before the footy starts on Saturday. This is the opportunity for members to ask questions. As Minister in charge of the Bill, I am the next best thing that the honourable member has in terms of getting advice. I might not be perfect, but I am sure the honourable member has a few more examples, and I am happy to work my way as best I can through those questions.

The Hon. A.J. REDFORD: I am grateful to the Minister for that, because a number of people are in a state of confusion, having invested significant sums in their enterprises and, before agreeing to any legislation, we have a responsibility to ensure that we know how that legislation is to work. Certainly, I do not want to go to my constituents saying that I do not know what the legislation means and that I cannot explain it to them.

Returning to the Eureka Tavern, I point out that it has a separate front bar where meals are currently available and I would describe them as counter meals in the fashion that the Minister described. There is a separate enclosed dining room where meals are available and there is a gaming room incorporating a significant dining facility and a bar in one enclosed place. That is a common occurrence throughout the metropolitan area and I could name two or three other venues with similar layouts. Where can smoking occur? What areas would need exemptions? If the tavern stops serving food in the separate front bar, could it declare the gaming room, which incorporates a bar and dining area, a smoking area as a second separate dining facility is already available?

The Hon. R.I. LUCAS: This is one of the significant areas where the Government, being as consultative as it always is and listening to concerns, did respond by way of moving further amendments. Under the old arrangement the licensee of a hotel which might have what it would want to see as two designated smoking areas and a dining area was able to nominate only one area, say, the front bar as the hotel's smoking lounge. That is what they were restricted to. Under the new proposals licensees will be able to nominate their front bar as their smoking bar or lounge, as we have discussed before, and then one dining area where there is no smoking (which is an enclosed area in the circumstances the honourable member is talking about). The third enclosed space that the honourable member was talking about was the gaming and eating area, and they would now be able to seek an exemption for that part of area where there is a bar or lounge. In that area they would seek the exemption and clearly, where dining was occurring, there would be no smoking; but in the bar, lounge or gaming section of that enclosed space there could be smoking. That is the change introduced into the legislation as a result of submissions by various interested parties.

The Hon. A.J. REDFORD: I now have questions about how the exemption process works. The Minister may recall that in my second reading speech I asked specific questions about how discretions would be exercised by the Minister and I do not recall that I got a direct response to those questions. I asked upon what criteria the Minister would exercise his discretion in granting exemptions. On my reading of the clause the Minister has a complete and unfettered discretion whether or not he or she exempts a particular area but, if he or she decides to grant an exemption, then the Minister has the power to impose certain conditions in terms of signage, air-conditioning and designating the area. What sort of policy does the Minister have in mind in granting exemptions, if any?

The Hon. R.I. LUCAS: The best I can do is refer to what has been known as the exchange of letters about which the honourable member is broadly aware, and particularly the letter that the Deputy Premier (Hon. Graham Ingerson), in consultation with the Minister for Health, wrote to Mr Peter Hurley, President of the AHA. As members would be aware, that letter was signed by Ian Horne, Jenny Ellenbroek, and someone's name I cannot read.

The Hon. A.J. Redford: Brian Kinnear.

The Hon. R.I. LUCAS: Brian Kinnear, Licensed Clubs Association.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: The honourable member does not have to worry about that; it is a question of recognising his writing.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: That does not make his writing any easier to read, let me assure the honourable member. That letter, which is signed in principle by those three persons and the Hon. Graham Ingerson on behalf of the Government, includes a preamble which I will not go through but which sets out the broad agreements. The letter then states:

> (3) In an enclosed single room in which a bar, lounge, dining and potentially gaming or wagering may occur, the following conditions will need to apply:
>
> a. The dining area will need to be designated (i.e. roped off). In this area smoking will not be allowed when meals are being consumed. This designated area would have to be separated with at least one metre between it and the bar and/or gaming/wagering area.
>
> b. At the same time as meals are consumed in the designated dining room area (a), smoking will be allowed in the remainder of this room, i.e., the bar, lounge or gaming/wagering area, if the following conditions occur:
>
> · that the room is adequately signed re smoking and non-smoking areas—

so there will obviously need to be signs—

> · and that the whole room has genuine reverse cycle air-conditioning or an air purification system.

The letter further states:

> Finally, these new conditions will be introduced into the Bill through an exemption clause in which the Minister will be responsible.

Whilst that was the exchange of letters, the actual amendments I am moving on behalf of the Government relate only to the installation, operation and maintenance of ventilation and air-conditioning equipment. They also relate to the display of signs, the maintenance of a bar or lounge areas as a distinct area separated by at least one metre from an area occupied by tables and chairs used for meals.

The Hon. A.J. REDFORD: I am not sure the Minister understood my question, and that is probably my fault; I did not express my question clearly. As I said in my second reading contribution, as I read them these amendments give the Minister a complete discretion—a total, complete, unfettered discretion—which he can exercise in any way he sees fit without reference to any other factor. Once exercised,

the Minister has the power—and it may influence the exercise of his discretion—to impose those conditions to which he referred. So, theoretically, on my reading of the amendments, the Minister may, for reasons totally unrelated to those three issues, refuse to grant an exemption. Does the Minister agree with my understanding of those amendments, that he has a complete and unfettered discretion?

The Hon. R.I. LUCAS: I briefly responded to the honourable member's question No. 21 in the second reading, where he urged a redrafting of the amendment. I said that it was important for the Minister to have a discretion, otherwise a bar could be established simply for the purposes of circumventing the legislation. The Minister acknowledges that he has that responsibility or discretion, (as the honourable member puts it) to make that particular decision. Some people have put to me the view that a Minister for Health (I am sure not this one) in the future may well, if this were left in, refuse to grant any exemptions at all.

The Hon. A.J. Redford: Or grant exemptions to everybody.

The Hon. R.I. LUCAS: Or grant exemptions to anyone. The one thing that Governments and Health Ministers recognise pretty quickly is that they are not laws unto themselves: they are part of a Government and a Government Party, and they are subject to the disciplines and processes of the Government Party room. If a Minister of a Government of any political persuasion were to act in a fashion which clearly the legislation did not intend, one would hope that, as the first port of call, that Minister would be pulled up by his or her Leader. Also, the Party room would also have the opportunity to take up that issue; and, thirdly, all members could take up the issue in the Parliament, but of course by highlighting the issue there one might not necessarily achieve any particular changes. With respect to many pieces of legislation we trust the commonsense and goodwill of the Ministers. They are part of the Executive arm of Government, and we place our trust in them to work within the broad parameters of the legislation.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: Ministers for Health (past, present and future) are subject to the processes of Government, of their Leader, and of the Party room. I have heard the stories that there might be Ministers who will do the lot in one way or refuse the lot in another way, but I have a little more faith in Health Ministers, and I am confident about the current Minister. I am certain that future Health Ministers would generally treat this discretion as fairly and appropriately as most members of this Chamber would expect.

The Hon. A.J. REDFORD: I understand and accept that, and I suppose it is important that it be placed on the record. However, what is to stop a Minister being arbitrary, capricious or inconsistent, despite his or her having the best will in the world?

The Hon. R.I. LUCAS: In the end, there is nothing to stop a Minister being arbitrary or capricious or, indeed, ignorant or foolish.

The Hon. A.J. Redford: Is there any check?

The Hon. R.I. LUCAS: There is a check, and I have indicated that check to the honourable member. The first check in terms of behaviour we hope would be the Executive arm of Government and the Minister's Leader. If a Minister, be it in health or any other area, acts capriciously or not in the best interests of the legislation and the people of South Australia regarding the fair administration of an Act, the Leader would take action. If that did not occur, the individual's Party room would have the opportunity to have a say. So, there are checks and balances.

The Hon. A.J. REDFORD: I have done the best I can on this issue, but I must say that I am not satisfied. It has always been a philosophy of this great Party of which I am proud to be a member to create business certainty so that business can go about planning and getting on with generating wealth for the benefit of the economy and the payment of taxes, which ultimately pay your salary and mine, Mr Chairman. What is the Minister proposing to do in the shorter term to provide some degree of certainty to the industry so that it can understand which areas are or are not likely to get an exemption? When will that information be provided to the industry so that it can plan its future enterprises with some degree of certainty?

The Hon. R.I. LUCAS: I have some new information, which would have added great substance and weight to my argument had I thought of it before. Under the amendments that I am moving on behalf of the Minister and the Government, clause 47(5) provides for an appeal to the Licensing Court. So, if the Hon. Mr Redford was a licensee of a hotel and sought an exemption from me, as a capricious, arrogant, out-of-touch Minister—

The Hon. A.J. Redford: Highly unlikely.

The Hon. R.I. LUCAS: Highly unlikely, yes—and I said, 'No, Mr Redford, you are not going to get an exemption,' I am advised that he could take that on appeal to the Licensing Court. So, there is—

The Hon. R.R. Roberts: On what does the Licensing Court base its judgment? That is the point.

The Hon. R.I. LUCAS: On the basis of this.

The Hon. A.J. REDFORD: But how can the Licensing Court make a decision? The Licensing Court could say, 'The legislation does not state that the Minister cannot make capricious, ridiculous or unfair decisions; it does not state that the Minister must develop a policy so that industry can understand where it fits; nor does the legislation state that exemptions will be granted in every case except where there is a flagrant breach or attempt to get around the spirit of the legislation.' There is nothing of that nature upon which the Licensing Court can possibly assess the Minister's discretion. So, how in those circumstances is the Licensing Court able to make a decision?

The Hon. R.I. LUCAS: The legal advice I have obtained is that this is not an uncommon situation in relation to the law. The Parliament passes the legislation, and the appropriate Minister, together with the Health Commission in this case, will need to then develop a policy, and that is the question that the honourable member is asking. I am advised that that policy will be developed after consultation with the industry.

The Hon. A.J. Redford: Which industry?

The Hon. R.I. LUCAS: All the interested parties. Clearly, the signatories to the letter would be a good place to start, I should have thought.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: And maybe others as well.

An honourable member interjecting:

The Hon. R.I. LUCAS: Let us leave it at 'interested parties' at this stage. The Government will develop a policy and then individual licensees, when they seek exemption, will be aware of the policy requirements and that the administration of the legislation will occur in accordance with that policy process. If it is not being followed, the Licensing Court on appeal will be able to take into account not only the

legislation but the policy guidelines that have been developed. One of the arguments for the delay between the passage of the Bill some time this week and the operation of legislation in 1999 will be to allow all these administrative processes, which will be difficult, to be satisfactorily resolved after proper and appropriate consultation with the key groups.

The Hon. A.J. REDFORD: 'Proper and appropriate consultation' in some of my recent experiences—and I refer to the Water Resources Bill—is in the eye of the beholder. Will the Minister give me some indication as to when it is likely that the policy will be put in place so that this very important industry to this State can make appropriate plans for the future?

The Hon. R.I. LUCAS: I cannot give the honourable member a precise date, but it will be as soon as is humanly possible; certainly not on the basis of having rushed it through without appropriate and proper consultation. Members can chuckle if they want to, but this Government is not about rushing through these sorts of things.

Members interjecting:

The Hon. R.I. LUCAS: Someone has to defend the Government's position. If others members do not want to, that is for them. I cannot tell the honourable member that this will be concluded by 1 October or 30 September; I am not the Minister responsible for the legislation. It will be done as soon as is humanly possible within the context of proper and appropriate consultation with the interested groups.

The Hon. A.J. REDFORD: A scenario relating to the time of smoking has been put to me by some people, and it may be an issue in terms of the conditions that the Minister might impose. In relation to various dining areas or restaurants after, say, 11 pm, when only a handful of diners remain in a licensed restaurant's enclosed dining area, all food has been consumed and remaining guests are enjoying coffee and liqueurs, is there any possibility that a person might be allowed to smoke, or in those circumstances is it possible for such a restaurant to apply for an exemption so that smoking can take place?

The Hon. R.I. LUCAS: No. As I have indicated before, the exemption applies only to bar or lounge areas and does not apply to dining areas as described by the honourable member.

The Hon. R.R. ROBERTS: We have sat here since 7.45 and listened to two back bench members of the Government, who have been to every Liberal Party Caucus meeting, and yet they do not have a clue.

The CHAIRMAN: Does this have something to do with the clause?

The Hon. R.R. ROBERTS: Yes, it has. These are the clauses that came in after Monday's crisis meeting, when they shot the Minister for Health off and put it in the hands of another Minister. For the first time we had the full and frank consultation that the Leader of the Government talks about. The only problem is that it did not start until Monday, and it was not concluded until Tuesday—

The CHAIRMAN: Order! With due respect, I have not heard one word that deals with this clause or for that matter the amendment to this clause. I would like the honourable member to come back to that.

The Hon. R.R. ROBERTS: I suggest with the greatest respect that it might be better to take the pain now in respect of this clause rather than draw it out over an hour. At 2.6 p.m. on Tuesday these amendments were dumped on members of this Council. It is no wonder the Hon. Angus Redford and the Hon. Caroline Schaefer cannot understand them. How does one think the Australian Democrats and the Australian Labor Party could understand this?

The Hon. Sandra Kanck: Because we are clever.

The Hon. R.R. ROBERTS: It appears that beauty is not only in the eye of the beholder. We are faced with a serious situation. In fact, members of certain lobby groups are present in the precincts of the Chamber tonight. I give credit to the Leader of the Government, because he tried valiantly to explain some of these individual cases that the Hon. Angus Redford obviously has a brief on. I was reading a copy of a letter from the Hon. Graham Ingerson which talks about the agreement. Although the valiant Leader of the Government tried to explain these provisions and although I am reading the documentation as someone who has not even been consulted, I found that half of what he said was grossly inaccurate. The Hon. Angus Redford is right: there are dangers in this clause. I refer to the ministerial discretion which the Hon. Angus Redford highlighted in his second reading contribution. I thought it was a very good point at that time. I thought that the Government would research that matter more effectively. Again, we are left with the poor old Leader of the Government who had to come up with some explanations. It is a wonder he did not break his leg running backwards and forwards—

The CHAIRMAN: Order! The honourable member is not dealing with this clause at all.

The Hon. R.R. ROBERTS: Yes, I am.

The CHAIRMAN: I will ask the honourable member to resume his seat if he cannot address his remarks to the clause or to the amendment.

The Hon. R.R. ROBERTS: I am talking to clause 47, Mr Chairman.

The CHAIRMAN: You might be talking to it but you are not talking about it.

The Hon. R.R. ROBERTS: I should hate to think that I would be gagged.

The CHAIRMAN: You will be.

The Hon. R.R. ROBERTS: I listened in silence to a very wide-ranging discussion from members opposite. Clause 47 is fraught with danger, especially in those areas where ministerial discretion takes place. We do not believe that this discretion ought to be conferred upon the Minister for Health. We have moved an amendment so that this power will lie with the Liquor Licensing Commissioner, and there are a number of reasons for that. The Leader of the Government is obviously confident that the ministerial and Party room processes will throw out a fair and equitable result.

The Hon. R.I. Lucas interjecting:

The Hon. R.R. ROBERTS: You have said that before, and I have never been convinced. We have a situation where almost every other activity that takes place in licensed premises will be under the purview of the Liquor Licensing Commissioner. The Liquor Licensing Commissioner obviously is involved in the distribution of alcohol; he plays a role in the placement of TAB; he is also involved in respect of gaming machines. He is almost the total authority, yet this amendment brings in the Minister for Health. When the parliamentary system fails—and I have no confidence in the parliamentary system because it has failed us up to now—we will go back to the Liquor Licensing Commissioner to sort it out.

The problem has been pointed out by the Hon. Angus Redford. When a licensee appeals, the Liquor Licensing Commissioner must then try to sort out the matter. But this amendment means that the problem that he is trying to sort

out is at the Minister's discretion. How can you set standards on a discretion? Clearly, the situation is intolerable. So, we propose that this matter be put in the hands of the Liquor Licensing Commissioner rather than the Minister, who may have a distinct bent. People have told me that they think that the Party room and the Leader will keep the Minister in line. However, he could be acting in good faith but have an interest which may bias him, despite the best of intentions. Rather than have a Minister with unfettered rights to do whatever he likes, we think that the Liquor Licensing Commissioner, who is relatively neutral in the process and has the facilities and knowledge of the industry, ought to be the person involved.

It would be remiss of me if I did not point out that this situation has been talked about in the second reading stage, and it does show that consultation would have been the way to go with this Bill. We knew that the legislation had to come through, and we know that it must be passed tonight. We are all tired and we know it must get through, but we do have a problem with the taxation base. The Opposition has agreed that that needed to be—

The CHAIRMAN: Order! The honourable member is not dealing with clause 47.

The Hon. R.R. ROBERTS: We have now brought in these matters which are embraced in clause 47 and which are holding up the Bill, but they could have been dealt with as a separate issue. We are now arguing about the detail of this clause. We now have two problems which could have been fixed; we could have fixed up the taxation and we could have fixed up the health aspects of this Bill. It is now being complicated by something which was brought in midstream.

It would be our earnest wish that we do not get onto such problems. Every time this Parliament meets at this stage of a session we debate a controversial matter that keeps us sitting here. We will be supporting most of the Minister's proposed amendments to this clause, but our amendment, which is on file, proposes to delete the words 'the Minister' and insert 'the Liquor Licensing Commissioner'. I ask members of the Committee to support our proposition.

The Hon. T. CROTHERS: I oppose the Minister's amendment and I have a number of reasons for doing so. The old cliche 'The price of liberty is eternal vigilance' I think has more than a little application to this amendment, even though it is better than the original clause in the Bill. It reminds me to some extent of the old tactics of law and order that prevailed at the time of Henry VII and Henry VIII and the Star Chamber where trials were held *in camera* and in absolutely secrecy.

The best cornerstone for the continuance of some form of democracy and the retention of some of the Westminster system that we have inherited is public knowledge of anything that the Government might choose to do or not to do. Irrespective of who the Minister is, whether that Minister be a Labor Minister, a Liberal Minister or a Democrat Minister, for that sort of power to reside in the hands of the Minister is to place temptation in the Minister's way. Unless the Minister comes from this place, it is not possible for a Minister of the Lower House not to feel tempted by the fact that he has power to effect particular activities in his or her electorate. That is why we have an amendment on file which seeks to pick up that point.

I want the Committee to understand why I oppose this amendment. I am not opposing it as some Party political hack but because, as I said last night, as a civil libertarian I am endeavouring to try to maintain that stance and look at this amendment in a unskewed fashion. That is rather in the fashion that democracy does not operate at its proper levels if there is the capacity to hide the truth from the ordinary John and Jane Citizen of any democracy. Members should think long and carefully before they entrust that power to any individual. As I said, my colleague the shadow Minister will move an amendment later, which, in the democratic sense, is a much more acceptable amendment to this clause. I oppose the Lucas amendment.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 24, lines 32 and 33—Leave out the definition of 'licensed restaurant'.

We should be able to move through some of these amendments marginally more quickly than the rest because we have been debating this subject *in globo*. This provision is deleted because subsequent amendments make it redundant.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 25, line 5—Leave out '(other than a licensed restaurant)'.

Again, this is part of what we have been discussing. It enables licensees to designate one separately enclosed bar or lounge area where meals are provided as a smoking area. The amendment provides for this clause to apply to restaurants as well as other licensed premises.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 25, line 7—After 'lounge' insert 'area'.

This is consequential.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 25, after line 9—Insert paragraphs as follows:

(ab) an area within licensed premises (whether being the whole or part of an enclosed public area) that—
  (i) is a bar or lounge area; and
  (ii) is for the time being exempted by the Minister;

(ac) licensed premises consisting of or including only a single enclosed public area (not the subject of an exemption under paragraph (ab) while meals are neither available nor being consumed in the area;.

This is consequential.

The Hon. R.R. ROBERTS: I move to amend the amendment as follows:

Page 25, after line 9—Leave out from the proposed paragraph (ab) 'the Minister' and insert 'the Liquor Licensing Commissioner'.

From all the discussions we have had and through questions from Government members and members on this side of the Chamber, we have clearly identified the problems. I pointed out to the Committee that all other operations in this industry come under the Liquor Licensing Commissioner, and our amendment simply seeks at this stage to insert that he be the person providing exemptions.

The Hon. R.I. LUCAS: The Government opposes this amendment. The Government's strong view is that the issue of smoking in dining areas of licensed premises is a public health issue rather than a licensing matter. Therefore, it is the Government's view that it is appropriate that the Minister responsible for the administration of these health provisions be responsible for making decisions on exemptions taking into account ventilation arrangements and similar issues. The Government's position is that it would be clearly and appropriately an issue of public health administration, and therefore, it is appropriate for the Minister to be responsible for the issue rather than the Liquor Licensing Commissioner.

The Hon. SANDRA KANCK: I have not yet decided my position: I was expecting the debate to tease out a little more

on this issue. We are simply using the term 'Minister' within the Bill. How do I know whether it refers to the Minister for Health or whether, for instance, it refers to the Treasurer?

The Hon. R.I. LUCAS: In the end, it depends to whom the legislation is assigned. The Premier has to assign the legislation to a Minister and it will depend on the decision of the Premier as to which Minister the legislation is assigned. Given that the Premier is not in South Australia at the moment, at this stage I am not in a position to respond directly to the honourable member.

The Hon. R.R. ROBERTS: The Minister's last answer negated the answer he gave me. The Minister says now that he does not know: it could well be the Treasurer. The Minister says that it depends on the Premier. The Minister said that it ought to be the Minister rather than the Liquor Licensing Commissioner because it is a health issue. It is something that has become part of the hospitality industry. The Liquor Licensing Commissioner, as I said, has the responsibility of administration of the sale of liquor and gaming areas, including poker machines and TAB outlets, and I assume that he has responsibilities for lotto. He does not have particular skills in all those area, but he is responsible for their administration. In all those other areas there are guidelines and rules within the legislation under which he works.

I understand the rushed nature of this legislation, but I suggest that to maintain the continuity of his responsibilities in the hospitality industry we ought to provide those tools for him to work with and give him the lot. After all, if there is an appeal situation, it will go to the Liquor Licensing Commission, so why not allow the Liquor Licensing Commissioner to have the initial responsibility and then, if there are any problems with it and someone wants to appeal (against proper standards, as pointed out by the Hon. Mr Redford), the commission can judge whether its Commissioner has done the right or wrong thing.

I am certain that people within the hospitality area would be far more comfortable with that than a situation where we bring in a new player, especially when we have no fixed guidelines. If we apply consistency here, and have it with the Liquor Licensing Commissioner, I am prepared to agree that we can set up the rules and regulations. I am not really happy with the proposition whereby the Minister giving exemption says that it may be subject to conditions fixed by the Minister which may include conditions requiring the display of signs, the installation and maintenance of ventilation, air conditioning or air purification. They are only 'mays'. He may do it. If they do not do it and someone says, 'We will close you down,' we have an appeal. We need to be more prescriptive.

I understand the necessity to get the legislation through, but my preference is to go for the Liquor Licensing Commissioner on the understanding that strict guidelines will be laid down for the Commissioner to abide by. If there is a problem, any licensee can go to their member of Parliament and apply parliamentary pressure if they like. However, at the end of the day, you have someone who is isolated from the political situation, so you take away the accusation of political bias. I just point out—not in a vindictive way—that one of the lobbyists was the campaign director (as pointed out by the Hon. Angus Redford) for the Liberal Party at the last election. It is not beyond the realms of possibility that someone would accuse a decision made by the Minister lobbied by that person as being biased.

The Liquor Licensing Commissioner has a standing and respect for his independence in these matters, and I think it is an eminently sensible idea that we give him the responsibility and agree as a Parliament that we will lay out some tools for him to work with and have another mechanism—the Liquor Licensing Court—to oversee whether he has acted properly against those proper guidelines that we agree tonight will be set up. I ask the Democrats to support this amendment.

The Hon. SANDRA KANCK: I think we could really get bogged down on this as I try to sort out the arguments. From that point of view, knowing we are headed towards a deadlock conference, I will support the Opposition amendments so we can move on, as it will be up for argument in the deadlock conference.

The Hon. R.R. Roberts's amendment carried; amendment as amended carried.

The Hon. R.I. LUCAS: I move:

Page 25, line 10—Leave out '(other than a licensed restaurant) between the hours of 10 p.m. and 5 a.m.' and insert 'between the hours of 9 p.m. and 5 a.m.'

This is mostly consequential. I am advised that to be consistent with the Liquor Licensing Act provisions for premises with entertainment venue licenses it would be appropriate to change '10 p.m.' to '9 p.m.' Given the amendment the honourable member has just successfully moved, it would seem to make even more sense to change the 10 p.m. to 9 p.m. I understand that this change has been supported by the Hotels Association.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 25, lines 15 to 25—Leave out paragraph (e) and subclauses (4) and (5) and insert—

(4) An exemption in respect of an area within licensed premises—

(a) may be given on written application by the licensee in a manner and form approved by the Minister and accompanied by the prescribed fee;

(b) may be subject to conditions fixed by the Minister, which may include conditions requiring—

(i) the display of signs;

(ii) the installation, operation and maintenance of ventilation and air-conditioning equipment;

(iii) the maintenance of a bar or lounge area as a distinct area separated by at least one metre from an area occupied by tables and chairs used for meals;

(c) may be varied or revoked by the Minister on application by the licensee or on contravention of or non-compliance with a condition of the exemption.

(5) The provisions of Division 4 of Part 2 relating to reviews and appeals apply in relation to a decision of the Minister under subsection (4) in the same way as in relation to a decision of the Minister under Part 2 but with references to the Administrative and Disciplinary Division of the District Court to be read as references to the Licensing Court of South Australia.

(5a) The occupier of an enclosed public dining or cafe area—

(a) must display signs in the area in accordance with the regulations; and

(b) must not, if an exemption under subsection (4) relates to the area, contravene or fail to comply with a condition of the exemption.

Maximum penalty: In the case of a natural person—$500
In the case of a body corporate—$1 000

We had a long discussion about this earlier.

The Hon. R.R. ROBERTS: I move to amend the Hon. Mr Lucas's amendment as follows:

Leave out from the proposed subclause (4) 'the Minister' wherever occurring and insert, in each case, 'the Liquor Licensing Commissioner'.

Given that this has been moved in another place, this is consequential.

The Hon. SANDRA KANCK: I support this amendment.

The Hon. R.I. LUCAS: I support the amendment.

The Hon. R.R. Roberts's amendment to amendment carried; amendment as amended carried.

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

Page 25, lines 15 to 25—Leave out from the proposed subclause (4) 'the prescribed fee' and insert 'a fee of $20'.

I understand that the prescribed fee for an application for an exemption is $200. There will be small clubs and pubs in country areas, and no doubt licensed premises in metropolitan cities, that will from time to time require exemptions. I understand that they go for three months. Is that right?

The Hon. R.I. Lucas: It depends on the conditions.

The Hon. R.R. ROBERTS: Subject to conditions. There may be situations where small country licensed premises from time to time will want to have an exemption. I do not really see where it makes a hell of a lot of difference to the process. I think it is quite well recognised that whenever you apply for a licence for anything there is a fee. I do not think the $200 is necessarily the best way of going about it and it could cause hardship to the smaller clubs who basically run these places as a fundraiser. In many instances to get the exemption and to try to recover $200 would probably mean two or three functions. Therefore, I think we achieve all the same things and I submit that in the overall scheme of things it would probably generate, I am told, about $280 000 in a full year.

The Hon. A.J. Redford: How much?

The Hon. R.R. ROBERTS: It is as good a guess as a lot of the others we have had tonight. I believe that $20 is a far more equitable situation and I ask the Government and the Democrats to support the proposition.

The Hon. R.I. LUCAS: The Government opposes this provision. I am told that a fee of $20 will not reflect the cost of dealing with exemption applications.

The Hon. A.J. Redford: They must be fairly complicated and difficult.

The Hon. R.I. LUCAS: They will be complicated and difficult. The fees should recover the costs of administration associated with exemption applications. The fee should also be sufficient to discourage frivolous applications. Under the scheme proposed by the Government it would be prescribed by regulation and it would be possible, if the fee was set at too high a level, for the Parliament to reject the particular fee; but to set it in the legislation at $20, as proposed by the Hon. Ron Roberts, would mean that every time you wanted to change it you would have to bring an amendment to the Act back to Parliament to increase it, if you wanted to increase it by CPI each year or whatever else. So on two grounds: it ought to be sufficient to pay for the administration of the exemption provisions and, secondly, it does not make sense, and most Parliaments do not stipulate in an Act itself that the fee should be $20 and then rely on amendment changes to make the changes to a fee, particularly when you are talking about a level of $20.

The Hon. A.J. REDFORD: How many licensed premises (approximately—within the nearest 1 000) will have areas that might fall into this category involving an exemption?

The Hon. R.I. LUCAS: It will not surprise the honourable member that we are not in a position to answer that question this evening. I am told the broadest figure is in the ballpark of 3 000 licensed premises. However, I am afraid that I am not in a position to give the honourable member a ballpark figure regarding the types of premises he is talking about.

The Hon. SANDRA KANCK: It is pretty clear to me, and I base it very much on the barrage of questions that the Hon. Mr Redford led with earlier when we were dealing with this clause, that there will be a degree of complexity in this and it probably will involve individual inspection of the various premises involved. The $20 fee will not even begin to cover it, so I will not be supporting the Opposition's amendment.

Amendment negatived.

The Hon. R.R. ROBERTS: The letter of understanding from the Minister and the three major parties states, at page 2:

Finally, these new conditions will be introduced into the Bill through an exemption clause in which the Minister will be responsible. It is proposed that the prescribed fee of $200 will be included for application for exemptions.

Is that the guaranteed fee or is it a suggested fee? This matter has been signed off on and, whilst we know that it says $200, we have said that it ought to be a figure much lower for the reasons I have already outlined. What is the status of this letter compared with the conditions laid out in the Bill? Is this merely an agreement that has no legality? Does the Government see that it has no responsibility in this respect or that it has a responsibility to the Bill rather than this?

The Hon. R.I. LUCAS: The agreement is signed by the Deputy Premier on behalf of the Government and countersigned by the three lobbying organisations, and it would be a clear indication of the Government's commitment and intention.

THE ACTING CHAIRMAN: The Hon. Mr Roberts's next amendment is consequential.

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

Page 25, lines 15 to 25—Leave out from the proposed subclause (5) 'Minister under subsection (4) in the same way as in relation to a decision of the Minister' and insert 'Liquor Licensing Commissioner under subsection (4) in the same way as in relation to a decision of the Commissioner'.

I concur in your ruling, Mr Acting Chairman.

Amendment carried.

The Hon. SANDRA KANCK: In regard to subclause (4)(b)(iii), why has the distance of one metre been chosen? One metre is less than the length of the desk at which the Minister is sitting. It is an incredibly small distance and I wonder why that distance was chosen. Would the Minister consider 1.5 metres as an improvement?

The Hon. R.I. LUCAS: I am constrained significantly by the letter of agreement between the Government and the three constituent parties in this respect. Evidently, this was an issue negotiated between the Minister for Health, the Deputy Premier and the three organisations that have countersigned.

The Hon. R.R. Roberts: It doesn't matter what the Parliament wants.

The Hon. R.I. LUCAS: No. The Parliament can make its decision but we have signed on behalf of the Government. The Government's position would be that we would not be able to move an amendment to this provision for the reasons I have outlined to the honourable member. In the end it is a question of judgment and balance. Obviously, the discussions centred on one metre. The Hon. Sandra Kanck would prefer 1.5 metres. If the Opposition supports 1.5 metres, that will be in the legislation. That is a judgment for the Parliament to take.

The Hon. SANDRA KANCK: As a consequence of the Minister's response, I therefore move to amend subparagraph (iii) of the Minister's amendment, as follows:

Delete 'one metre' and substitute '1.5 metres'.

The Hon. R.I. LUCAS: The Government's position is clear. We have tried to negotiate a resolution, which obviously will not satisfy everyone. An agreement was reached between the Government, licensed clubs, the AHA and the Restaurateurs Association which has been read into the public record and which refers to 'one metre'. I am therefore not in a position to support the honourable member's amendment.

The Hon. R.R. ROBERTS: After full consultation with my shadow Minister in another place, I indicate that we support the Hon. Sandra Kanck's amendment.

The Hon. Sandra Kanck's amendment carried; amendment as amended carried.

The Hon. R.I. LUCAS: I move:

Page 25, line 27—Leave out 'or (4)'.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clauses 48 to 56 passed.

Clause 57—'Functions and powers of Trust.'

The Hon. A.J. REDFORD: I asked some questions of the Minister 24 hours ago. I have had a private discussion with him and he indicates that he now has a response.

The Hon. R.I. LUCAS: I move:

Page 30—

Lines 20 to 22—Leave out subclause (3).

Line 25—Leave out 'this Act' and insert 'the prohibition of such advertising or sponsorships (enacted by the Tobacco Products Control Act Amendment Act 1988)'.

The Hon. Angus Redford yesterday was correct, as he often is, regarding his consideration of this provision. These amendments to clause 57(3) and 57(4)(a) are not on file. For the benefit of the Hon. Sandra Kanck and the Hon. Ron Roberts, I will explain them. Last evening, the Hon. Angus Redford highlighted a deficiency in the drafting of the legislation. An error was made in transferring some of the provisions of the previous legislation. Therefore, I move these amendments to correct that position.

The wording in the Bill is a direct copy of the wording in the existing Tobacco Products Control Act 1986. The section was introduced in the 1988 amendments which created the trust. Subclauses (3) and (4)(a) were transitional provisions to protect organisations previously in receipt of tobacco sponsorship. Clearly, the provisions are now redundant, although it may be desirable to maintain some indication that this new Act is not intended to impact adversely on bodies that have received financial support through those arrangements. Therefore, subclause (3) should be deleted and subclause (4)(a) amended to reflect this. These amendments are an attempt to meet the concerns raised last evening by the honourable member.

The Hon. A.J. REDFORD: Can the Minister explain how Living Health—or Foundation SA, or whatever its name is—implements and balances the objects which are clearly apparent in clause 57(4)—that is, the replacement of tobacco advertising or sponsorship with grants from Living Health—with some of the other objectives expressed elsewhere in the clause?

The Hon. R.I. LUCAS: I do not think I can give the honourable member a precise definitive answer to that. With any organisation, including Living Health, when you have a series of objectives or objects of the Act, the issue of balance in the end is up to the people who run Living Health. It may well be that members such as the Hon. Mr Redford and others do not agree with the balance that it strikes, and I guess you can make that judgment only as to how it spends the money and some of the other questions the honourable member has raised in relation to how you might measure the outcomes of the expenditure. But, in terms of how it balances it, I am happy to undertake to write to Living Health and put the honourable member's questions to it. However, knowing most organisations, I presume that it will say that it seeks to achieve all of the objectives in a balanced way—perhaps it might even say in an equal way. I am afraid I am not in a position to give the honourable member an answer to that question.

The Hon. A.J. REDFORD: First, is the Minister—and I appreciate that he is only representing the Minister responsible for the Bill—aware of a discussion paper issued by Living Health which states:

A recent policy decision has been taken by the board of trustees to discontinue tobacco replacement sponsorship and treat each sponsorship application on merit.

Secondly, does the Minister agree that, if that is the policy that has been taken by Living Health, it is in direct contradiction to the existing objects set out in section 14D(4) of the Tobacco Products Control Act 1986 and inconsistent with the stated intention in clause 57(4)?

The Hon. R.I. LUCAS: Again, I am not in a position to throw complete light on the answers to the questions the honourable member has put, but my advisers have given me a copy of a letter that has been written by the General Manager of Living Health to the Minister for Health dated today, 20 March 1997. I will read that into the public record, because it traverses similar ground to that covered by the honourable member. The letter states:

Dear Minister, I refer to proposed amendments to the clauses of the Tobacco Products Control Act dealing with replacement by the Sports Promotion Cultural Health Advancement Trust of tobacco sponsorship. I would like to advise that changes to the legislation will not be used by Living Health to automatically discontinue sponsorship of all sporting, recreation and arts organisations who were entitled to replacement sponsorship. Sponsorship has predominantly been determined on merit and the published objectives for two years.

If the honourable member was suggesting that that was a recent decision, it would appear that the General Manager is indicating that sponsorship has predominantly been determined on merit and the published objectives for two years. The letter continues:

All applications will be determined on their merits against published objectives and criteria. It should be noted that sponsorship has not remained at static levels since 1988 but reflects changing audience and spectator levels, opportunities and objectives. Many of the organisations are receiving greater levels of sponsorship in 1997 by Living Health than they were in 1988 by the tobacco companies. Yours sincerely, Karin Puels, General Manager.

The Hon. A.J. REDFORD: I am sure that every member here would agree that the racing industry in South Australia has undergone an exceedingly difficult time, and in an earlier contribution today I congratulated the Minister for making decisions that may turn racing around. We all know that racing is a big employer. I take into account the rather general comments made in the letter so kindly read into *Hansard* by the Minister, but I have information from the South Australian Jockey Club as to the adverse effect on that industry of some of the decisions made by Living Health. In the first year of sponsorship in December 1989, it received the equivalent of $198 000 by way of tobacco replacement. By December 1992 that had increased to $242 000, an amount that reflects inflation.

Since then, for four years, during the most difficult period racing in this State has ever suffered, that amount has remained fixed. The then Minister (Hon. Dr Cornwall) said at the time of the initiation of this fund that the principal aim was to replace tobacco sponsorship and to ensure that those sporting bodies and the like had a proper replacement amount. The Minister can take this question on notice, but why is it that, during the most difficult period racing has ever suffered, it has suffered a decline in the amount of sponsorship that it has received from Living Health?

The Hon. R.I. LUCAS: I am sure that the honourable member will appreciate that I am not in a position tonight to answer for the funding decisions of Living Health. I am prepared to take on notice all the questions from the honourable member and, through the appropriate Minister, refer them to Living Health and have an appropriate response forwarded to the honourable member. But I am just not in a position this evening to be able to explain the reasons for decisions that Living Health may or may not have taken.

The Hon. R.R. ROBERTS: I understand from what the Hon. Angus Redford has explained that Dr Cornwall gave some undertaking to match the funding to racing and other organisations equivalent to tobacco sponsorship. Will the Minister inquire from his officers what the sponsorship contract was with the South Australian Jockey Club from the tobacco industry and when it cut in and cut out? Was it for 10 years or for two years? I think it has some bearing on the proposition that has been put by the Hon. Angus Redford.

The Hon. R.I. LUCAS: I will be happy to take that question on notice and correspond with the honourable member to provide him with the response.

The Hon. A.J. REDFORD: I am told in this leaked document that I have that it was clear to Living Health that there was duplication in terms of two Government bodies providing funds to sport and recreation organisations for sport and recreation development purposes, those being Living Health reporting to the Minister for Health and the Department of Recreation and Sport reporting to the Minister for Recreation and Sport. Did the Government take into account or have any advice to that effect in formulating this legislation? If the Government did, why did it decide to continue with this duplication? If the Government did not, will it undertake to consider how it will address this problem so far as duplication is concerned?

The Hon. R.I. LUCAS: No, I am not aware of the document. It may well be that the Ministers responsible for the legislation have been aware of the document and that that has assisted them in their consideration of it. I am not aware of the document to which the honourable member refers.

The Hon. A.J. REDFORD: I would be grateful if at some stage the Minister could explain to me and to this place why two organisations (Living Health and the Department of Recreation and Sport) have different priority outcomes which result in funding guidelines that are not entirely complementary because they have a different focus? I would be grateful to know what the Government proposes and why the Government did not take the opportunity during the course of this Bill to address that specific problem. I understand that the Minister will take that on notice. I refer to the variance in funding roles and criteria concerning Living Health and the Department of Recreation and Sport. The document states:

> This confusion and/or frustration with Living Health's role may be the result of sport and recreation organisations refusing to acknowledge the fact that Living Health's primary charter is health promotion.

I would be grateful to know why Living Health has said that its primary charter is health promotion when at the very same time we in this Parliament are dealing with other functions and powers of the trust. In particular, we are dealing with clause 57(4) and an existing section in identical terms that talks about replacement of tobacco advertising or sponsorships. I would also be grateful to know why Living Health seems to take it upon itself to totally and completely ignore objectives set out in legislation passed by this Parliament. Further, the document provides four options, as follows:

> 1. That the status quo remains;
> 2. The establishment of a coordination committee with representatives of both organisations;
> 3. The transfer of sport and recreation funds administered by Living Health to the Minister for Sport and Recreation; or
> 4. The board of trustees delegates to the Department of Recreation and Sport the responsibility for administering trust funds in the area of recreation and sport.

I would be grateful if the Minister could advise this place which of those options, if any, was adopted by the Minister. I am not sure whether the Minister knew about these options. As I said earlier, this document, of which I have a copy, is a discussion paper entitled: 'Living Health—Department of Recreation and Sport Funding Programs'. I would be grateful if the Minister could explain which of those options were considered and, in particular, why option three, namely, the transfer of sport and recreation funds administered by Living Health was not made to the Minister for Recreation and Sport in order to avoid duplication.

I also have a number of questions which were asked the other night but which have not yet been answered. First, does the increase in revenue from June 1993 ($9.6 million) to June 1996 ($11.5 million) reflect an increase in consumption of cigarettes over that period?

The Hon. R.I. LUCAS: The State Commissioner for Taxation advises that it is not an indication of increase in consumption. It is a combination of three factors: first, the very stringent anti-bootlegging provisions of the State taxation office which saw less bootlegging and more collection of revenue; secondly, an indication of increased general prices of cigarettes; and, thirdly, an increase in the levy during that period from 5 per cent to 5.5 per cent going to Living Health. The strong advice from the State Commissioner for Taxation is that it was not an indication of increased consumption.

I am happy to take on notice all the questions the honourable member has asked and I undertake on behalf of the Minister to bring back a reply. Officers have been working hard over of the past couple of days to provide further information for the honourable member. He asked questions on Tuesday and, I think, yesterday about the objectives of Living Health and I was able to give some broad answers. I now place on the record some further information about the objectives of Living Health.

I am advised that Living Health is an agent for change for a healthier South Australia. The objectives include:

- 100 per cent of sporting, recreation and arts organisations sponsored by Living Health implementing smoke-free policies by 1 July 1997.
- All sporting and arts organisations sponsored by Living Health becoming 100 per cent smoke-free in indoor areas by 1 July 1997.
- Increasing public awareness of smoke-free venues to 75 per cent of the total target population.

- Supporting other health promotion agencies in their endeavours to promote health by providing expertise in health promotion methodology and behavioural marketing and access to sporting, recreation and arts organisations and target audiences.
- Increasing by 10 per cent per year the number of sporting, recreational and arts organisations sponsored by Living Health having trained staff in managing asthma emergencies.
- Increasing by 10 per cent per year the number of sporting, recreation and arts organisations sponsored by Living Health who conduct outdoor activities implementing a sun smart policy.
- Increasing by 5 per cent in 1997, 5 per cent in 1998 and 10 per cent in each year thereafter the number of sporting, recreation and arts organisations sponsored by Living Health offering a healthy food choice.
- Increasing by 5 per cent per year the number of sporting organisations sponsored by Living Health implementing a sports injury prevention policy.

In part, that answers the specific questions of the member that he wanted Living Health to indicate its specific targets. He also wanted numerical targets in relation to some of the objectives of Living Health, and the advice provided today by officers from Living Health does indicate the objectives of Living Health with some specific numerical targets in a whole variety of areas, not all related to the issue of tobacco products.

The Hon. A.J. REDFORD: In the flurry of activity over the past 24 hours, I wonder whether the Minister has been provided with an answer to the question I put in this place on 17 October 1995 concerning Living Health.

The Hon. R.I. LUCAS: An answer has been provided today to that question. I will not read it out but I will provide the honourable member with a copy of that response. I also have an answer to another question asked by the honourable member about page 320 of the report concerning money spent on market research and general consulting services, a copy of which I will provide to the honourable member.

The Hon. A.J. REDFORD: Perhaps the Minister would be kind enough to let Living Health know that I am grateful for that prompt answer to my question, although I must say it is one of the slower responses that I have received. I wish to raise one other issue in relation to Living Health. I have heard increasingly from various groups that Living Health is consciously going to shift its sponsorship policy from sport to the arts. Last year's annual report shows that some $4.7 million went to sport, $2.2 million went to art and about $810 000 went to recreation. I am told that roughly that proportion has continued in terms of funding since the implementation of Living Health and that has met generally with approval from all parties.

The Hon. T.G. Roberts: Can't you take that up in the Party room?

The Hon. A.J. REDFORD: Some things need to be on the record. The rumour that I have been told from four or five different sources is that Living Health is planning to share the money equally between sport and art and, based on the 1996 figures, that would cost sport about $1.25 million and it would put an additional $1.25 million into the arts. I would be grateful if the Minister could confirm or quash those rumours so that the people who continue to feed me this information can be quickly corrected.

The Hon. R.I. LUCAS: I am delighted to take that on notice and get a response back as soon as I can. At an earlier stage the Hon. Robert Lawson asked about the strategic plan for Living Health towards the year 2000. I now have a copy of that strategic plan and I understand that it has been launched.

Amendments carried.

The Hon. R.I. LUCAS: I move:

Page 30, line 25—Leave out 'this Act' and insert 'the prohibition of such advertising or sponsorships (enacted by the Tobacco Products Control Act Amendment Act 1988)'.

This is consequential.

Amendment carried; clause as amended passed.

Clauses 58 to 65 passed.

Clause 66—'Powers of authorised officers.'

The Hon. R.I. LUCAS: I move:

Page 33, after line 23—Insert paragraph as follows:

(da) examine and test ventilation and air-conditioning equipment in an enclosed public dining or cafe area;.

This new paragraph provides authorised officers with the power to examine ventilation arrangements in enclosed public eating areas. It is consequential on the amendments relating to ministerial exemptions (now by the Liquor Licensing Commissioner) which may include conditions concerning ventilation and air-conditioning equipment.

Amendment carried; clause as amended passed.

Clauses 67 to 69 passed.

Clause 70—'Application of fees revenue.'

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

Page 37, line 7—After 'fund' insert 'continued under part 4'.

This is part of a package of amendments that we need to move because of our commitment to hypothecating the extra tax moneys that have now been agreed to by this Chamber and I am advised that it is necessary as a sequence that this amendment be made.

The Hon. R.I. LUCAS: As I understand this amendment, it is consequential on an earlier provision that the Government lost. The Government's position remains the same, that is, it is opposed, but we acknowledge that we have lost the substantive test clause.

Suggested amendment carried.

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

Page 37, after line 8—Insert new subclause as follows:

(2A) Not less than such part of the amount collected under this Act by way of fees for tobacco merchants' licences as is attributable to the fixing by section 7 of the prescribed percentage at a percentage greater than 100 per cent must be paid into the fund established under this part for application in accordance with the provisions of this part.

This amendment continues the earlier process.

Suggested amendment carried.

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

Page 37, after line 9—Leave out 'into the fund for the purposes of subsection (2)' and insert 'for the purposes of subsection (2) or (2A)'.

Suggested amendment carried.

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

Page 37, line 12—Leave out '(2)' and insert '(3)'.

This is again part of the sequence of suggested amendments.

Suggested amendment carried; clause as suggested to be amended passed.

New clause 70A—'Fund for anti-smoking programs and research.'

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

Page 37, after line 12—Insert the following suggested new clause:

70A. (1) A fund is established at the Treasury.

(2) The fund consists of money paid into the fund under this Part.

(3) The fund will be administered by the South Australian Health Commission.

(4) The Commission may, in accordance with guidelines formulated by the Minister for Health and promulgated in the form of regulations, apply the fund in making grants for—

(a) education and publicity programs designed to reduce the incidence of tobacco smoking, particularly in young people; and

(b) research undertaken in the State into the prevention or treatment of smoking-related diseases.

(5) The regulations must establish an independent body of expert persons to advise the Commission on the allocation of grants under subsection (4).

(6) The Commission must, on or before 31 October in each year, provide an annual report to Parliament on the application of money from the fund during the preceding financial year.

This concludes the suggested amendments of the Labor Party for the hypothecation of the increased taxation.

The Hon. SANDRA KANCK: I indicate that the Democrats will be supporting it. This for me will be the test as to whether this is a health Bill or a tax Bill. If this money goes into anti-smoking campaigns, I will believe that it is a health Bill. I have already drawn attention to the fact that there are almost 23 000 under-age children smoking in South Australia. Between the State and Federal Governments, the State tobacco licence fees and the Federal tobacco excise manage to levy from those people under 18 more than $4 million per year, and I think it is only fair that that money should come back in a way that will assist them in giving up their smoking and to stop others from taking it up. This is the way it can be done.

The Hon. R.I. LUCAS: There are a number of aspects of this clause that the Government would want to contest. However, it is partially consequential on the earlier amendments moved in relation to hypothecation. I therefore do not intend at this stage to proceed with the discussion about this aspect of the package. That will be an issue I am sure the Government will take up in the conference of managers debate. It is probably worthwhile leaving the debate there. I indicate the Government maintains its opposition to hypothecation in principle and these particular proposals, as well as the way this clause is drafted.

The Hon. R.R. ROBERTS: I thank the Hon. Sandra Kanck for her indication of support. I agree with her sentiments. They are precisely the sentiments of the Opposition, but in her contribution, the Hon. Sandra Kanck said this money should be used for anti-smoking campaigns. I draw to her attention the fact that there are two aspects of this proposition: first, education and publicity programs designed to reduce the incidence of tobacco smoking, particularly in the young and, secondly, it should be spent on research undertaken in the State of South Australia, basically, into the prevention or treatment of smoking related diseases. I think she needs to be absolutely clear that we have two propositions.

Suggested new clause inserted.

Remaining clauses (71 to 87), schedules and title passed.

Bill read a third time and passed.

[Sitting suspended from 10.23 to 11.1 p.m.]

SUPPLY BILL

Adjourned debate on second reading.

(Continued from 19 March. Page 1222.)

The Hon. L.H. DAVIS: I was not intending to make a contribution to the Supply Bill but felt that it was necessary to do so, having listened to the Hon. Terry Cameron's lengthy contribution on the Bill which in many respects was dominated by blinkers and bravado and certainly driven by loyalty rather than logic.

As one of the few people in the Labor Party who can stand up and proclaim some knowledge of business, it was somewhat disappointing to see that the honourable member was so remote from the reality of the economic situation of this State, which was brought about by the extraordinary and inept performance of the Bannon and Arnold Labor Governments. For the Hon. Terry Cameron to stand up in this Chamber and say that this Government's economic policies have been carried largely by people who can least afford it—the battlers in the northern, southern and western suburbs—is an extraordinary statement when one remembers that not so long ago the Hon. Terry Cameron, in a rambling discourse, attempted to defend the Port Adelaide council against the indefensible $4.5 million loss suffered at the Port Adelaide flower farm, affecting the very battlers of the western suburbs for whom the Hon. Terry Cameron now claims he stands. That same Port Adelaide flower farm, which resulted in an extraordinary debt for the Port Adelaide council, meant that western suburbs battlers are paying more in council rates than are people living in the leafy eastern suburbs.

Getting down to business, let us look at what the Hon. Terry Cameron said and let us methodically cut a scythe through it. He talked about the increase in debt. It was about the only admission he made—the only decency in his speech. He admitted that there had been a problem under the previous Labor Government. He said that between 1990 and 1993 debt in South Australia increased from $4.7 billion to $8.2 billion, or from 17 to 27 per cent of gross State product as a result of the financial disasters of the State Bank and SGIO. That was an increase of some $3.5 billion, which reflected the $3.15 billion debt of the State Bank. It also took some account of the problems occurring in the SGIC, which was devastated by a string of losses occurring on ill-fated investments such as a 50 per cent interest in the Scrimber project, which lost $60 million, and a raft of properties which were owned around metropolitan Adelaide and in the City of Adelaide which were largely unlet. Of course, at the top of this lost pyramid in SGIC was that extraordinary debacle at 333 Collins Street—a building which was recently sold for $241 million but which, since it was forcibly acquired by the SGIC pursuant to a put option in July 1991, has cost this State, this Government and the people of South Australia a lazy $500 million in losses.

One of the Hon. Terry Cameron's arguments, which I think was first concocted by the Hon. Don Dunstan (who, whilst I respect him in many ways, I do not think could ever hold himself out as an economic and a financial expert), was that the debt levels when the South Australian Liberal Government came into office in 1993 were no greater than was the case when the Playford Government was in power in the 1950s and 1960s. But, of course, the whole point was that the debt that this State ran up during the 1950s and 1960s was for infrastructure projects. It was not to fund debt; it was not for something negative, something which was forced on the

State such as happened with the SGIC and State Bank. It was for developing projects, building roads and bridges, bringing wealth and prosperity to the people of South Australia, as we built up a manufacturing base.

The Hon. Anne Levy interjecting:

The Hon. L.H. DAVIS: Do not tempt me, Ms Levy. I do not want to shred you as well. I am concentrating just on the Hon. Terry Cameron. Of course, the Hon. Mr Cameron said that enterprises such as SGIC and SA Timber were originally set up because the private sector was not providing the service people needed. He did not go on to say how inept SA Timber was; what an extraordinary fiasco it was; how $60 million was lost in the Scrimber project; or how the Government, of which the Hon. Anne Levy was a member, got a long way down the track to actually and seriously contemplating building a plywood car called Africar—2 000 of them a year.

The Hon. Terry Cameron then went on to develop a passionate argument against privatisation, ignoring totally the fact that the State Labor Government, in its dying hours, committed itself to privatise the State Bank of South Australia, with a financial benefit flowing from the Commonwealth Government as a result of that privatisation.

The honourable member totally ignores telling this Council that his own Labor Government in Canberra had made the biggest privatisation issue in the history of Australia by selling off the Commonwealth Bank of Australia and the national airline Qantas, by privatising and selling off the Commonwealth Serum Laboratories and attempting to sell Australian National Shipping Lines (ANL). The Commonwealth Bank, Qantas and the Commonwealth Serum Laboratories are now listed on the Stock Exchange and are doing remarkably well. One cannot deny in history that the Keating Government also was serious in terms of privatising at least part of Telecom, now known as Telstra.

We heard nothing from the Hon. Terry Cameron about the scandals of the ports and the railways and the ineptitude of the unions in recognising the need for change so that Australia could adopt world's best practice. We heard nothing of how the Electricity Trust has been corporatised, how employment has been halved and productivity dramatically improved to bring us into a world competitive position. We heard nothing about the reality of the world that we live in from the Hon. Terry Cameron. It is quite clear that this Labor Party has learnt nothing from its three years in Opposition and that it is quite clearly looking to spend at least part of the next century in Opposition. I support the Bill.

The Hon. ANNE LEVY: In speaking to the debate, I remind the Hon. Mr Davis that he used to regale us with the figures on bankruptcy in this State but, since the election of the Liberal Government, he has ceased to do so, and we all know why: it is because the bankruptcy rate is far higher now than it ever was during the Labor Administration and the Hon. Mr Davis does not wish to criticise his Government as being responsible, as it is, for the incredibly high bankruptcy rate now existing in South Australia. If the Hon. Mr Davis does not believe me, I suggest that he find the figures. However, he probably knows the figures as well as he used to but does not wish to publicise them. Indeed, from the smile on his face, I think that is the case.

One of the matters I wish to mention tonight on a quite different matter concerns the future of the Media Resource Centre in this State. This centre has played a central role in the provision of facilities, equipment and advice for emerging film makers in this State and the developers of multi media. It is certainly true that it is very useful to this State to have the facilities, equipment and advice available outside the confines of a tertiary institution.

I am sure the Council would appreciate that a great deal of Australia's creativity in the arts and in industry in general happens outside the walls of academe. In fact, the Media Resource Centre provides the main basis of training for film makers in this State, unlike the situation in other States, where it occurs primarily in academic institutions.

The Media Resource Centre has also played an essential role in the provision of advice and in acting as a clearing house for information on current projects, training and industry attachment opportunities, and as a central reference point for anyone who is involved in screen culture in South Australia. The membership of the Media Resource Centre includes Scott Hicks, the director of *Shine*. He is only one of many leading artists and technicians involved in both film and multimedia who have started their careers through access to facilities such as the Media Resource Centre.

Members may wonder why I raise this topic, but the Media Resource Centre is in danger through the actions of the Federal Government. That Government commissioned the Gonski report on the film industry in this country and, while the report was very complimentary to bodies such as the Film Financing Corporation and what it has done to develop film industry in this country, in a throw-away section the Gonski report recommends that the screen culture area should be chopped viciously by the Federal Government.

Currently, this area of the whole of screen culture receives only $3 million a year from the Federal Government, and this is spread right around Australia. Of this money, through the Australian Film Institute (or the AFI, as it is commonly known) the Media Resource Centre has received 30 per cent of its income for promotion of screen culture. In fact, until now our Media Resource Centre has received 30 per cent of its income from Federal sources and 30 per cent from State sources, and has earned, through its own efforts, the remaining 40 per cent.

I appreciate that the State Government has recently provided the Media Resource Centre with a lot of new media equipment and that the Government has loaned to the MRC money—it is not a grant—which it is expected to pay back over the next three years. Certainly, the State Government appears to appreciate the importance of the MRC. However, it would be absolutely disastrous for film training at all levels and for the screen culture section of the film industry if the Federal Government goes ahead, implements the Gonski report and removes 30 per cent of the income from the Media Resource Centre.

I raise this matter not in a Party political manner but as an appeal to the Government that, like the car industry (although on a much smaller scale), this is a situation where the actions of the Federal Liberal Government are in grave danger of damaging a vital part of South Australia. The whole screen training area and screen culture area will suffer considerably if the Gonski report is implemented and the Federal Government cuts the support which has enabled the Media Resource Centre, along with State Government support, to achieve all that it has achieved.

I state clearly to the State Government that we would be very happy to act in a bipartisan way with it to make a concerted effort on behalf of the South Australian screen industry. The Opposition would be more than happy to join with the Government in appealing to the Federal Liberal

Government, as we are doing over tariffs on cars, not to decimate the Media Resource Centre in this State by removing 30 per cent of its income. I do this most sincerely, and I hope the Government will take up this offer so that on behalf of South Australia we can present a united front to the Federal Liberal Government, which is threatening to take such damaging action.

On a different matter, I wish to raise the question of Speaker's Corner and Edmund Wright House. I need hardly remind members that it is now nearly two years since this Government viciously closed the Old Parliament House Museum and the State History Centre was moved to Edmund Wright House. I regularly attend committee meetings in Old Parliament House, and I still feel a tremendous sadness and anger each week when I go there because this magnificent part of South Australia's history is no longer the Old Parliament House Museum open to the public and enjoyed by South Australians and interstate and overseas tourists.

The move to Edmund Wright House did not include moving the displays, of course, but merely the State History Centre and its administrative wing. The Minister trumpeted loudly an arrangement that was made with the National Museum in Canberra for travelling displays to be presented in Adelaide in the main banking chamber of Edmund Wright House, which is certainly a magnificent site for exhibitions. However, I am informed that this arrangement has stopped: no more national museum travelling exhibitions to Adelaide and no further use of the banking chamber for these travelling exhibitions for the benefit of South Australia.

Why has this happened? It has happened, partly but not entirely, because of the poor facilities in Edmund Wright House and the lack of airconditioning, something which no self-respecting museum can accept when displaying precious and fragile exhibits. I am not talking about full climate control, which the Art Gallery has, where humidity as well as the temperature is controlled, but just plain air-conditioning to control the temperature. That does not exist at Edmund Wright House any more than it does at Tandanya.

Some time ago, I asked the Minister whether she would ensure that Tandanya had airconditioning to enable it to play its proper role as an important museum and gallery in South Australia, Tandanya being the only one of our major galleries which does not have airconditioning or climate control of any sort. A few desultory fans in the ceiling or on desks are all you find at Tandanya. If anyone visited the place, as I did, during the nine day heatwave, they would have realised that the situation was absolutely impossible for the people who work there and for any visitors, who will not go there during that sort of heat if they know that it is not airconditioned, and for the maintenance and care of exhibits.

Likewise, Edmund Wright House is losing the travelling exhibitions from the National Museum because there is no airconditioning. Related to this is the fact that when the Minister closed the Old Parliament House Museum she made two promises: first, that there would continue to be public access to the heritage section of Old Parliament House—I thought the whole of it was heritage, but apparently the Minister felt that some areas were more heritage than others—and, secondly, that Speaker's Corner would continue. What is the current situation two years later? There is no public access to Old Parliament House. There is a sign on the front door saying, 'No public access.'

An honourable member interjecting:

The Hon. ANNE LEVY: It does not add 'Go away', but it might as well. There was talk that people would be able to see the chamber. It is true that if a group of school children is booked in with the education officer they can be taken to see the historic chamber. However, that is not public access: no-one can walk in off the street and look at this section of our history. It is not available at weekends, when no-one could suggest that it is required for committee meetings or Party meetings or any of the other uses to which it is put. There is no public access as there is, for instance, in the Parliament of New Zealand, where there are well attended and very popular public tours through Parliament House in Wellington at weekends—well attended, I might say, by New Zealanders and by tourists. However, we have no public access to Old Parliament House, and it is a disgrace that the Minister promised this two years ago and it has not been achieved. In fact, there has been a complete and deathly silence on this matter.

With respect to Speakers' Corner, the Minister stated that of course Speakers' Corner would continue. She was very proud of the tradition of Speakers' Corner. It was absolutely essential for the cultural life of this State that Speakers' Corner continue. Two years later, where is Speakers' Corner? It has dropped down a black hole: it no longer exists. There is no longer any discussion even of where it might be located. The Minister obviously hopes it has dropped off the map and that people will forget that we had this proud institution of Speakers' Corner which she destroyed. I ask the Minister to respond at some time and tell us just what is happening with Speakers' Corner. To say that it will be reinstated at some stage is not good enough. It is rather like the Commonwealth promising in 1911 that it would build the Adelaide-Darwin railway and now, 86 years later, it still has not happened. Is Speakers' Corner to be in the same situation—'Yes, we will have a Speakers' Corner, but 86 years hence perhaps we might get around to it'?

The tragic loss of the National Museum exhibitions from Edmund Wright House could perhaps have one ray of sunshine to it: there might now be room in Edmund Wright House to re-establish Speakers' Corner. I certainly hope that the Minister will give this careful consideration and see that in fact Speakers' Corner does continue to exist and this proud tradition in South Australia can continue.

My final comment refers to the Women's Information Service, which is still in the back of the Institute Building on Kintore Avenue in very poor accommodation, and which for three years the Minister has been saying must be moved. There was talk that it might move to the Roma Mitchell Building, but that seems to have died a death, and we no longer hear any rumours to that effect. There have also been rumours that it might move to the refurbished Torrens Building when its refurbishment is complete. That refurbishment is proceeding at such a pace that it will, I presume, be finished before very long—to the great joy of the many groups which have been waiting for accommodation in the Torrens Building for so many years—but there has been no announcement as to whether the Women's Information Service is to move there or not.

I hope that the Minister can give some information and tell us just what is happening about the accommodation for the Women's Information Service and that this will not be another one of the promises she makes, does not keep and hopes that everyone forgets about. I support the motion.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contributions to the second reading of the Bill. Normally, I would take

the opportunity to respond in some detail to contributions from members, but I am sure that all members will appreciate that, given the lateness of the hour and of the session, I will not on this occasion respond in detail to the second reading. I thank members for their contributions to this Bill.

The PRESIDENT: Before I put the question, can I say that I have listened to all the supply speeches—

The Hon. R.I. Lucas: Excellent speeches.

The PRESIDENT: The Minister says that they were excellent speeches: I would say that they had very little to do with supply. As members know, supply is the amount of money allocated to the running of the Public Service, and I cannot recall more than about two subjects that dealt with that. The rest of them ranged far and wide. Having let the first one go, I had to let the rest go, but it would be wise of this Chamber—

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

The Hon. Anne Levy interjecting:

The PRESIDENT: The honourable member is at it again! Members do not have to just continue to talk because there is a space in the place. It would be wise if members looked at what a Supply Bill is about. There are plenty of other times during the year when they can range far and wide. We have a five minute session once a week for five or six members to do that—and they do, and I appreciate those. I think they are good sessions. However, Supply Bills are really about supplying funds for the running of the Public Service and I would have thought that it would be wise to have kept the speeches roughly along the lines of what those people administer. However, that has not been the case this time, and I would ask that members look at that in the future.

Bill read a second time and taken through its remaining stages.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

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

No. 1. Clause 6, page 2, lines 24 and 25—After the word 'authority', twice occurring, insert the words ', person or class of person'.

No. 2. Clause 10, page 3, line 26—Leave out '24' and insert '48'.

No. 3. New clause, page 7, after line 27—Insert

Amendment of s.85—Compulsory voting

15A. Section 85 of the principal Act is amended by inserting after subsection (9) the following subsection:

(9a) The Electoral Commissioner may, if of the opinion that it would not serve the public interest to prosecute an elector for an offence against this section, decline to so prosecute.

No. 4. Clause 16, page 7, lines 30 to 34, page 8, lines 1 to 16—Leave out paragraphs (a) and (b) and insert—

(a) by striking out subparagraph (ia) of subsection (1) (a);

(b) by striking out from subsection (1) (b) 'locked' and substituting 'securely closed';

(c) by inserting after subsection (1) the following subsections:

(1a) However, if a ballot paper for a House of Assembly election and a ballot paper for a Legislative Council election are contained in the same envelope, and the ballot paper for the Legislative Council election is to be accepted for further scrutiny but not the ballot paper for the House of Assembly election, the returning officer must—

(a) withdraw the ballot paper for the Legislative Council election and place it in the securely closed and sealed ballot box reserved for declaration ballot papers accepted for further scrutiny; and

(b) seal up the envelope with the disallowed ballot paper for the House of Assembly election: and

(c) place the envelope with the other envelopes containing disallowed declarations ballot papers.

(1b) The returning officer, when acting under subsection (1a), must comply with the following provisions:

(a) the returning officer must, if practicable, avoid removing the disallowed House of Assembly ballot paper from the envelope but, if not, both ballot papers may be removed from the envelope but the disallowed ballot paper for the House of Assembly must be returned to the envelope; and

(b) the returning officer must, if practicable, avoid unfolding the ballot papers before dealing with them as required by this section but, if not, the returning officer may unfold them to the extent necessary to separate them; and

(c) the returning officer must, as far as practicable, avoid looking at votes recorded on the ballot papers and must not allow anyone else to do so before dealing with them as required by this section.

No. 5. Schedule 2, page 29, at the end of the table—Insert—

Section 139 (2)(a) Strike out 'shall' and substitute 'will'.

Amendment No. 1:

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

That the Legislative Council disagree to Amendment No. 1 made by the House of Assembly and make the following alternative amendments:

Clause 6, page 2, lines 21 to 28—Leave out proposed Division 5A and insert—

DIVISION 5A—PROVISION OF CERTAIN INFORMATION

Provision of certain information

27A. (1) The Electoral Commissioner may, on application by a prescribed authority, provide the authority with any information in the Electoral Commissioner's possession about an elector.

(2) The Electoral Commissioner may, on application by a person of a prescribed class, provide the person with any of the following information about an elector:

(a) the elector's sex;

(b) the elector's place of birth;

(c) the age band within which the elector's age falls.

[For the purposes of this subsection, electors' ages will be divided into age bands in accordance with the regulations.]

(3) However, information is not to be disclosed to a person of a prescribed class if the elector has requested the Electoral Commissioner in writing not to do so.

(4) The Electoral Commissioner—

(a) may provide information under this section subject to conditions notified in writing to the authority or person to whom the information is given; and

(b) may charge a fee (to be fixed by the Electoral Commissioner) for providing information.

(5) An authority or person who contravenes or fails to comply with a condition under subsection (4)*(a)* is guilty of an offence.

Maximum penalty: $1 250.

Schedule 3, page 30, lines 6 to 11—Leave out proposed new clause 6A and substitute—

Exempt electoral records

6A. A document is an exempt document if it is a record of information about an elector obtained in the course of the administration of the *Electoral Act 1985*; but not recorded on an electoral roll (as defined in that Act).

When amendment No. 1 was made by the House of Assembly it sought to authorise the Electoral Commissioner to provide particulars of an elector's sex, place of birth and the date of birth of an elector to a person or class of persons. The House of Assembly particularly referred to members of Parliament on the basis of their desire to have information available

which might be helpful in maintaining contact with electors. I have given consideration to this issue which arose in the House of Assembly from a series of contributions in the early hours of the morning (certainly late at night) without any consultation with me. But the Treasurer, who represented me in the House of Assembly, indicated that the matter would be further considered in the Legislative Council. That consideration has occurred; there have been discussions with the Electoral Commissioner.

What I am seeking to do by way of this amendment is to provide, first, that the Electoral Commissioner may, on application by a prescribed authority, provide the authority with any information in the Electoral Commissioner's possession about an elector. That has been happening for a long time. I took the view that it ought to be authorised by legislation, and it very largely relates to research and other studies as I understand it for which more information about an elector is necessary to assist in that research. That information is generally made available by the Electoral Commissioner upon conditions.

To then deal with the issue of particular information being available to a person or a class of persons, the amendment which I propose authorises the Electoral Commissioner on application by a person of a prescribed class to provide the person with certain information about an elector—the elector's sex, place of birth and the age band within which the elector's age falls. When we talk about an age band, I have sought to allow that to be defined in accordance with the regulations. That will mean that the Electoral Commissioner, who is a independent statutory officer, will have a discretion and that the class will be prescribed by regulations, so it is subordinate legislation which is then in the public arena, and the age banding will also be a matter of a requirement included in regulations, both of which can be the subject of public scrutiny and, ultimately, disallowance if members do not agree with the proposal being made. So, it is in the public arena.

However, I have taken the view that in this context an elector may request the Electoral Commissioner in writing not to make the information available to a person of a prescribed class. That is a right which electors should have, because the information which is provided by electors to the Electoral Commissioner on the basis of establishing identity for the purpose of registration should be available only under strict conditions, if at all. Also, there is a provision that the Electoral Commissioner may attach conditions to the availability of the information, whether it be to a prescribed authority or a person of a prescribed class, and may charge a fee to be fixed by the Electoral Commissioner; and there is an offence provision which relates to failure to comply with a condition. That is an intelligible and appropriate scheme so that, if there are circumstances in which this information may be provided otherwise than to a prescribed authority, it is subject to some form of parliamentary scrutiny.

The second part of the amendment relating to amendment No.1 of the House of Assembly relates to the issue of freedom of information. In the House of Assembly, the way in which the exemption from freedom of information disclosure was framed, it related to information on the electoral roll. That was not intended. In the House of Assembly, this was raised as an issue and there was substance in it. The amendment now focuses upon an exemption under the Freedom of Information Act for information which is part of the record kept by the Electoral Commissioner but which is not recorded on the electoral roll, so publicly available information is not subject to an FOI exemption.

Amendment No.2 is a proposal that the Legislative Council agree with that amendment made by the House of Assembly. This is the issue of the Electoral Commissioner having a discretion whether or not to prosecute under section 85. I have been through this at length and we have debated it. There is a concern on the part of the Opposition and the Australian Democrats that this is a back-door way of achieving voluntary voting, which is a clear policy position of the Government. That is not the case and I have sought to refute that on the basis that the Electoral Commissioner is an independent statutory officer and the Electoral Commissioner exercises the discretion, and this gives the Electoral Commissioner more flexibility, particularly where time and distance may be a problem in relation to service of proceedings and requiring an elector who has not voted to attend at a place which is some considerable distance from the place of residence.

I have accepted that if we take this to a conference—and it may be the only issue which goes to a conference—it is unlikely to be successful. I have, therefore, decided at this stage of the session to forgo the amendment and deal with it again on another occasion.

The Hon. P. HOLLOWAY: The Opposition agrees with amendment No. 1. I compliment the Attorney on the job that he has done in trying to clarify the amendment as it came from the other place, and I think that he has done a very good job in balancing the various needs. When dealing with information that is provided on an electoral roll, given that we have compulsory voting throughout this country, that roll gives us a very comprehensive database. That database can be very useful for a number of people for a number of reasons, but clearly there are also issues concerning who should have access to that information, and those issues need to be balanced.

In this legislation, we need to strike a balance between who should have access to the information, what type of information they should get, and under what conditions they should be able to get it. The Attorney has come up with about as good a balance as possible. The amendment provides that information will be made available to persons of a prescribed class, so regulation will determine who may get that information and it will be restricted. Apart from the name and address of the elector, which is contained on the roll, the other information would be the elector's sex, the elector's place of birth and the age band within which the elector's age falls. How that is determined would be subject also to regulation.

If this amendment is carried, it will strike the right balance between providing information that should be available while at the same time protecting people's rights to privacy. The Opposition is happy to support the amendment and we look forward to its passage.

The Hon. M.J. ELLIOTT: The amendment of the Attorney-General is certainly better than the amendment that came from the House of Assembly, and I note that the Attorney-General said that this cropped up late last night in the House of Assembly, so I am not sure how much thinking went into it. I know that one lot of thinking went into it, namely, that some members of Parliament could see that, if they could get on a disk the names of all the electors in their electorate and could get the gender, the place of birth and a rough approximation of their age, that would be really wonderful for mass mailing. In that way they could target people born in Greece or young people or old people. The

sort of stuff that they usually compile over the years by doorknocking, gradually building up their database, will be given to them straight away. Members of Parliament who work their electorate in that way will think that it is the greatest thing since sliced bread.

However, anyone who has any knowledge of privacy principles and privacy issues has a very clear understanding that, when data is collected, it should be used for the purpose for which it has been collected and should not be applied for another purpose without the very clear consent of the people who have provided the information. The measure that was sent to the Lower House allowed for the police and taxation authorities—those sorts of people—to have access to the Electoral Commissioner for what would be quite legitimate legal reasons. As expanded in the Lower House and now somewhat fixed up, that information will now be provided to other persons. At this stage, the only protection is that those persons will be of a prescribed class, or will be prescribed individuals.

I ask members to ask themselves very honestly how they can justify personal information about individuals being handed over on a computer disk to someone else. That is precisely what this allows. It is one thing if the information handed over is non-identifying, for example, if a disk was handed over to a geographer which did not identify each individual, their age, gender, place of birth and so on and they could get a cross-section of an electorate that would be okay, but that is not the sort of people who will be getting this information. Even as the Bill is currently drafted they will get the name of the person, their address, age, birth place and gender. That goes against privacy principles which are being applied around the world.

This amendment on the run in the House of Assembly to suit personal electorate needs, it appears, of some members of Parliament is an absolute scandal. Luckily because the term 'prescribed' is included this is a debate that we will be able to revisit before the dastardly deed is finally done, but I warn members now that, if they think members of Parliament will be handed over a disk containing that level of personal information, they had better have another think real quick because I do not believe that the electors of South Australia will tolerate that and they would be certainly most upset if they believed that their local member was supportive of that idea.

The Hon. P. HOLLOWAY: I make one point in relation to the comments of the Hon. Mike Elliott. Before I came into this House I worked for a number of years for a Federal member of Parliament. I can well recall when electoral rolls were in the old printed version (as recently as the mid-1980s) and contained information on the occupation and date of birth of electors. That information was readily available then. So, I would argue that the amount of information that would be provided under this amendment would be considerably less than that which was available 10 years ago.

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: Yes, there is changing technology and that is why we do need some limitation and that is what has happened. The elector's gender is obvious from the name for most people, anyway. I hardly think that is a breach of privacy. In relation to the elector's place of birth, again it would seem to me that where people come from is fairly useful information for many people for many purposes; for example, whether they are local, interstate or overseas and, similarly, an age band. I would argue that information on a band of ages is not particularly intrusive. The member could argue that making the date of birth of an elector widely available would be an unnecessary intrusion, but I do not think an age band is particularly intrusive. I repeat the comment I made earlier. The Attorney has done a good job in balancing up the relative concerns we have of privacy with the availability of information and I congratulate him on the job he has done.

The Hon. M.J. ELLIOTT: I am devastated about the way in which the Hon. Paul Holloway talked about balancing. What is balancing? There is the interest of the elector who has provided the information. There are certainly the interests of the Electoral Commissioner who did not need this clause at all. There are the interests of people such as the taxation department and the police. The only other interest I can think of is the interest of members of Parliament who would like this in a very user friendly form for their own convenience. What sort of balance are we talking about? The balance between the MP and the elector, who is really providing the information not for the MP's convenience but providing it because it is necessary in terms of full and proper identification so that they can prove their identity and show their qualification to vote.

Motion carried.

Amendment No. 2:

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

That the House of Assembly's amendment No. 2 be agreed to.

Motion carried.

Amendment No. 3:

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

That the House of Assembly's amendment No. 3 be disagreed to.

As I have indicated already, this relates to the discretion of the Electoral Commissioner.

The Hon. P. HOLLOWAY: The Opposition believes we should disagree with amendment No. 3 made by the House of Assembly. The Attorney-General was quite right when he said that had this matter gone to a conference it would certainly have been rejected.

The Hon. M.J. ELLIOTT: The Democrats also stand by our original position and do not support the amendment of the House of Assembly.

Motion carried.

Amendments Nos 4 and 5:

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

That the House of Assembly's amendments Nos 4 and 5 be agreed to.

Amendment No. 4 tidies up provisions in clause 16 where there are two ballot papers in the one envelope. Amendment No. 5 is a change to make the language consistent with other amendments; this was missed when the drafting first occurred.

The Hon. P. HOLLOWAY: The Opposition supports those two amendments. I want to congratulate the Attorney on the job he has done in sorting out the problems in dealing with ballot papers which are ineligible for the House of Assembly but eligible for the Legislative Council. It is a matter on which I moved an amendment when this Bill first went through the Chamber, but there were some problems with it. Following the deliberations by the Attorney, we have now solved those problems. We now have a very good amendment which clarifies the situation relating to those ballot papers.

The Hon. M.J. ELLIOTT: The Democrats support amendments Nos 4 and 5.

Motion carried.

The following reason for disagreement was adopted:

Because the amendments are incompatible with the scheme of the legislation.

[Sitting suspended from 12.37 to 2.53 a.m.]

SITTINGS AND BUSINESS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That the Council at its rising adjourn until Tuesday 27 May 1997.

The end is nigh—we hope. There has evidently been extensive discussion among representatives of all Parties and, having listened to a short period of the debate in the other place, I think there is agreement. One member is putting a point of view at the moment, but I would anticipate that in the not too distant future we might get the House of Assembly's recommendations to this Chamber as to how we might progress the matter. We also have to send the Electoral Bill to the other place so they can process it. This might be an opportune time for us to speak to the adjournment motion. Mr President, on behalf of Liberal members I thank you for your tolerance and assistance as you near the end of your reign as the President of the Chamber. I am sure we will see you again in the next session at the end of May. We certainly hope that a beast is being fattened for the annual Press versus Parliament cricket match coming up on Easter Thursday. We hope the Opposition Whip has the gas barbecue raring to go.

We thank Jan, Trevor and all the table staff. These hours are not fair on you: we understand that. People get a bit tetchy, but we thank you for all the work you have done in this hectic last week and through the other weeks of this session. We thank *Hansard*—those who are coherent and able to hear our thanks at the moment. Those who are not, please leave a message on their desk that they can read when they become coherent and are able to accept the thanks from all members for what they do all the time and particularly during the difficult last week of a session. In the absence of the leadership, I thank the Hon. Terry Roberts, representing the Leader and Deputy Leader of the Labor Party in this place for all their assistance. I thank the Hon. Jamie Irwin in his absence (he is catching a plane in about three hours, so he is not with us at this late hour) and the Hon. George Weatherill for all they do.

I thank the Hon. Mike Elliott as the Leader of the Democrats and through him the Hon. Sandra Kanck for her assistance in what is generally the one Bill that remains in the last week; in this case it was the tobacco Bill that she was handling. We thank her for her good humour and her willingness to continue the discussions to complete the debate this week. We thank the Hons Mike Elliott and Carolyn Pickles for processing a lot of Bills this week. Two or three Bills came in in the last three or four days, and one that the Auditor-General wanted and one or two things that had to be processed in pretty short time. Luckily, they were matters upon which everyone agreed and they were able to be processed, and we thank members for doing that. Finally, we thank all the other staff who keep Parliament House going. They are obviously not here to hear these remarks, but we do appreciate the work they undertake on our behalf as members. We look forward to seeing all the members and staff when next we meet, at the end of May.

The Hon. T.G. ROBERTS: On behalf of the Opposition and representing the Leader and the Deputy, I thank you, Mr President, for the way you have conducted business, particularly towards the end of the session. It does not matter how we plan the last weeks of the legislative process, we always tend to run late and go into late hours. Everybody makes a declaration that the business of the Council will be processed a little more carefully each session we meet, but each session ends up exactly as we are finishing tonight, that is, late and unpredictable. Therefore, I do not have to apologise on behalf of the Opposition for that occurring.

We can generally blame the Government for organising the business of the House. I thank all the people who have to concentrate for long hours in supplying the services that both Houses require, and in this respect I refer to *Hansard*, the catering services and Parliamentary Counsel. I also thank the advisers who are not here at the moment. The Government has a fair swag of them, and that makes it easy for its members. However, it is much more difficult for the Opposition. A lot of policies, strategies and tactics have to be worked out on the run.

The Opposition has worked as closely as possible with the Democrats to supply good opposition to the Government of the day, although it must be frustrating for some that we supply the strategy development to assist in making sure the refinements to the legislation that the Government introduces goes out in a way that the citizens of South Australia will appreciate.

The Hon. Ron Roberts would probably like to make some sort of declaration on his ability to be able to thwart the worst aspirations of some front-bench members opposite. The Hon. Caroline Pickles may not be as forward and outgoing as the Hon. Ron Roberts.

I thank the Clerks who are not at the table and who help with travel arrangements, particularly for country members who make demands on their services with very short notice. I was talking not about interstate or overseas travel but about the work they do to get country members onto planes and make the necessary arrangements. I am sure that the Hon. Caroline Schaefer would second that part of my comments. I will not fill in until the message arrives. Someone may like to second the motion.

We heard a premature 'goodbye' to the President. Members opposite let the strategy development slip. I think we will see the President when the Parliament reconvenes at the given time. If not, I am sure that there will have to be an impromptu goodbye so that we can have a send off. I am sure the Premier will not put us to that inconvenience.

An honourable member interjecting:

The Hon. T.G. ROBERTS: I can predict an innings and a 48-run victory to the parliamentarians' side! I am sure that everyone will be well serviced by the Whips. In the absence of the Hon. Jamie Irwin, I thank the Government Whip for working in cooperation with the Opposition Whip (Hon. George Weatherill). The business of the House travels as freely as it can without too much clutter. There seems to be a fair bit of cooperation between the two—I have not seen any arguments on the floor. I support the motion.

The Hon. M.J. ELLIOTT: I, too, support the motion. I thank the staff of this place—the Clerks, the Messengers, *Hansard* and the others who work around Parliament House and who make our jobs possible and ensure that everything that needs to be done is done. I thank all members in this place for what is generally a cooperative atmosphere. We obviously have strong disagreements on individual issues, but the debate in this place for the most part is handled in a civil

manner. I hope it always stays that way. I learnt years ago not to say 'goodbye' to anybody. These things often turn out to be very premature and, if we need to, we can look at them later.

The PRESIDENT: As there seems to be time for a small speech because we will be separated for six weeks or so, I wish to thank everyone for being tolerant because we have had a lot of disruption in the past two or three years, particularly in this last period with Jan and Trevor working downstairs with me, and the other staff working in the old billiard room. It has made things difficult and full marks must go to Jan, Trevor, Noeleen and Chris for running the operation so smoothly, and it has run particularly smoothly. I thank them very much for all their work. I thank the two Leaders. The Hon. Carolyn Pickles is not here, but perhaps the Hon. Terry Roberts could pass on the message.

I thank the Whips, who regularly give me a list of speakers. They never make mistakes and they do extremely well. I thank Ron for making sure that I always have plenty of water. John, Todd and Graham do an extremely good job for us. Finally, of course, *Hansard* reports the proceedings, and I thank them. I thank my Deputy President, the Hon. Trevor Crothers, who fills in at the drop of a hat and does an extremely good job. Thank you all for being very civilised people in this small Chamber. Without a bit of a giggle sometimes it could be pretty boring, but it rarely is in this place. Despite what people in another place might say about us, it is a good Chamber in which to work. I thank you all for your cooperation because that is what makes it very easy for me.

Motion carried.

NETHERBY KINDERGARTEN (VARIATION OF WAITE TRUST) BILL

Returned from the House of Assembly without amendment.

TOBACCO PRODUCTS REGULATION BILL

The House of Assembly intimated that it had agreed to amendments Nos 2 to 13, 15 and 17 to 20 without any amendment, had agreed to amendments Nos 14 and 16 with amendments, and had disagreed to amendment No. 1 and to suggested amendments Nos 1 to 5.

Consideration in Committee.

The Hon. R.I. LUCAS: I move:

That the Legislative Council no longer insist on its amendment No. 1.

I will explain the situation for the benefit of honourable members who have not been part of the ongoing process of trying to resolve this matter. There are a number of related actions which will be before us in terms of amendments to be agreed or not agreed in this Chamber. The briefest description of the package of amendments is that there will no longer be a hypothecated fund, but there will be a statement which I will read in a moment which commits a sum of money for specific purposes agreed by all the Parties as a replacement. There will also be changes to subsequent amendments which will reinstate the Minister for Health in relation to the provisions of clause 47 as opposed to the Liquor Licensing Commissioner. On behalf of the Minister for Health, I read the following statement as a summary of the commitment from the Government:

As the result of agreement by all Parties in the South Australian Parliament, the Government will commit the first $2.5 million of any additional revenue raised by the legislation on an annual basis to a fund to be administered by the South Australian Health Commission. This fund will be used to implement education and publicity programs designed to reduce the incidence of tobacco smoking, particularly among young people, by 20 per cent over five years. This money is in addition to money already allocated to Living Health and does not affect any of the allocations made by Living Health. The fund will operate as long as the surcharge exists. The Government acknowledges the role played by the Opposition and the Australian Democrats in reaching this conclusion.

I add my thanks to the Hon. Sandra Kanck and the Hon. Ron Roberts for the role they have played. In particular, I thank the Hon. Sandra Kanck for her willingness not only today but also two or three weeks ago to meet with the Minister for Health and me and to make herself available for discussions in the interests of trying to see through to the end what she and the Minister regard as a most important health reform, which is part and parcel of the legislation before us.

I am sure that the Hon. Sandra Kanck will be delighted with this aspect of the legislation. However, as I have indicated, this is not the only aspect of this legislation that is health reform related. Other aspects of the legislation, which I will not detail now, are health reform related also. This agreement is a further significant indication of the willingness of the Government—and now the Parliament—to ensure that this is a significant health reform package. I thank the honourable member not just in relation to this aspect but also for the discussions that took place on other matters.

This Bill has been very difficult for anyone who has been involved with it. Personally, as Leader of the Government, I have appreciated the honourable member's willingness to consult, discuss and put firmly her views. In the end, she rolled the Government when she had to do so in order to achieve the significant reforms that she wanted, but on other occasions she was prepared to compromise in the interests of seeing this through to the end. I thank the honourable member for that and all members for the role they played in reaching this agreement.

The Hon. R.R. ROBERTS: Without being too trite at this early hour of the morning, I find it a little galling when people are congratulated for being involved in and willing to have discussions with the Government. The Opposition has always been cooperative, but it is difficult to be cooperative when you are not invited to take part in the discussions.

However, putting that to one side, this package represents a compromise. Clearly, the Government did not want to become involved in a hypothecated situation in relation to this legislation. What we really have is a Clayton's hypothecation, but the effect of it is what is important.

This agreement is a first for South Australia. It allows $2.5 million extra to go to the Health Commission together 3with the $563 000 that it already receives through the Living Health program. This puts South Australia in the position of being the best funded State in Australia—and that is a credit to the Parliament. There were a number of agreements. I point out that the final outcome was the basis of the Opposition's position from the start and resulted from the amendments moved by the Opposition. I am proud to have moved those amendments on behalf of my colleague, Ms Lea Stevens, in another place, and I thank the Democrats for their support in getting these amendments through, thereby providing the basis for discussion.

I thank them for their cooperation with us and the Government and their assistance in coming to a final agreement. I

flag once again our disappointment about the fact that we seem to have an anomaly whereby everything else in the hospitality industry is being conducted by the Liquor Licensing Commissioner. We think it is still sensible that it should apply in this case, but we are in a situation where a compromise was required and if we could not come to an agreement it would have gone into another round of discussion and, in all the circumstances, that would have resulted in the agreement. Obviously, the numbers would have been there, with the Democrats and the Government.

So, there is a spirit of compromise. We have achieved our goal of having money specifically put aside. The first $2.5 million of this extra taxation will now not just be going straight into public revenue as a tax grab: it will be hypothecated, if you like, into the very important area of educating our younger people, in particular, in the dangers of cigarette smoking. The Hon. Sandra Kanck will be delighted by the statement by the Minister in another place that there will be a target set to reduce the number of such people by 20 per cent. I agree with the theory. I do not resile from the position that we took in the Committee stages and, hopefully, those outcomes will be met.

We believe that there will be problems with exemptions through the Liquor Licensing Commission; but time will tell. Overall, we are satisfied with the outcome and look forward to the benefit of these arrangements flowing through to all South Australians.

The Hon. SANDRA KANCK: At the outset of this debate I said that it was going to be a test as to whether or not the Government's claim that this was a health Bill was correct or the Opposition's claim that it was a tax Bill was correct. In the light of the outcomes, it is a health Bill—and I am delighted to be able to say that. We have the agreements for smoking bans in restaurants to be phased in in 1999 but, more importantly, we have this amount of $2.5 million. It is a delightful outcome. I suspect, too, that the health Minister must also be delighted, because I believe if he had gone into his Cabinet two weeks ago and said, 'I want $2.5 million per annum to spend on anti-smoking promotion,' the members of Cabinet would have told him to just run away. However, he has that now as a result of the process that we have been involved in in this Legislative Council.

I have to claim some credit for the balance of power role. If we were not here to exercise that role we would not have had that outcome. However, I also give credit where credit is due, with the Government being willing to make that announcement. It puts South Australia at the forefront in anti-smoking control, when this money comes into operation in about six months' time when people in the Health Commission have had an opportunity to start planning how they are going to use it. It is going to make a huge impact, probably in the same sort of vein as the California example that I quoted in my second reading speech. So, I am delighted with the outcome.

There are a few things that I have regrets about—that we did not get the expiation fee in and we have not managed to make it mandatory for the courts to take away a licence when someone sells tobacco products to anyone under 13. However, given that we have this $2.5 million that will be dedicated to promoting anti-smoking practices, I will live with those losses.

Motion carried.

The Hon. R.I. LUCAS: I move:

That the House of Assembly's amendments to amendments Nos 14 and 16 be agreed to.

Motion carried.

The Hon. R.I. LUCAS: I move:

That the Legislative Council do not further insist on its suggested amendments Nos 1 and 5.

Motion carried.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly intimated that it did not insist on its amendments Nos 1 and 3 to which the Legislative Council had disagreed, and had agreed to the alternative amendment made in lieu of amendment No. 1 and to the consequential amendment made by the Legislative Council.

ADJOURNMENT

At 3.30 a.m. the Council adjourned until Tuesday 27 May at 2.15 p.m.