LEGISLATIVE COUNCIL

Tuesday 17 February 1998

The PRESIDENT (Hon. J.C. Irwin) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that the written answers to the following questions on notice, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 9, 36, 41 and 42.

DRINK DRIVING

9. **The Hon. T.G. CAMERON:**

1. How many motorists were tested for drink driving for the years—

(a) 1993-94;
(b) 1994-95;
(c) 1995-96; and
(d) 1 July 1996 to 31 March 1997?

2. How many fines were issued for drink driving offences and how much revenue was raised as a result for the years—

(a) 1993-94;
(b) 1994-95;
(c) 1995-96; and
(d) 1 July 1996 to 31 March 1997?

3. How much was spent by the Police Department on drink driving campaigns for the years—

(a) 1993-94;
(b) 1994-95;
(c) 1995-96; and
(d) 1 July 1996 to 31 March 1997?

The Hon. K.T. GRIFFIN:

1. (a) 1993-94 236 165
   (b) 1994-95 227 327
   (c) 1995-96 228 202
   (d) 1-7-96 to 31-3-97 405 945

2.

Year	Issued		Expiated	
	No.	Amount	No.	Amount
1993-94	1 615	$184 854	1 040	$117 825
1994-95	1 413	$163 184	993	$114 049
1995-96	1 446	$168 102	965	$111 714
1-7-96 to 31-3-97	1 582	$189 483	936	$111 615

3. The Police Department does not keep financial details on road safety measures at this level of detail. The costs of drink driving campaigns are spread across the Department, including time undertaken by patrols as part of their normal duties.

EMPLOYEE OMBUDSMAN

36. **The Hon. T.G. CAMERON:**

1. Will the Government, as a matter of urgency, correspondingly increase its funding to the Employee Ombudsman's Office considering the workload has nearly doubled since 1994-95?

2. If not, why not?

The Hon. R.I. LUCAS: The Employee Ombudsman's Annual Report, 1995-96 recommended:

> That the South Australian Government establish a panel of external mediators whose role would be that of assisting in the resolution of disputes between government agencies and individual employees as quickly and as close to the cause of the dispute as possible. A number of external mediators (who would not be permanent Government employees) would form a panel from which the parties to the dispute would select a mediator for a particular dispute. This panel would be chosen by the CPE, unions with members in the State Public Service and the Employee Ombudsman. (p.54)

In responding to the question about this recommendation, it is important to note that the Employee Ombudsman, the former Commissioner for Public Employment, Mr G. Foreman and the Public Service Association (PSA) have met to discuss these aspects of the Report and to attempt to quantify the extent of grievances by public sector employees which may have required mediation services.

It is necessary to draw a distinction between formal complaints about administrative actions in government agencies, and queries on employment matters, including enterprise bargaining. The PSA, the Employee Ombudsman and this Office are regularly in receipt of queries and anecdotal reports of grievances that cover a wide range of workplace issues. While there has been some increase in the number of queries, there is as yet no evidence of a significant increase in actionable decisions leading to formal complaints which require conciliation by Chief Executives or where external mediation services may have resolved a particular problem.

It is the view of the Commissioner for Public Employment that, both here and in other jurisdictions in the current climate of public sector refocussing, restructuring and enterprise bargaining, there is a naturally higher level of uncertainty and anxiety among some employees about their employment conditions. This has contributed to queries about administrative decisions, including issues of fairness. It is any employee's right to raise those queries, and best practice to respond to them fully. What emerges as actionable decisions warranting formal complaints and mediation or appeal, is, however, another matter and one we would be concerned about if there was any evidence that these type of complaints were increasing.

The Commissioner for Public Employment has released a *Background Briefing Paper* on Grievance Resolution which outlines the best practice of trying to resolve grievances as early as possible, using mediation where helpful. Consultation on this paper, including with the Employee Ombudsman and the PSA, indicated strong approval for its advice to employees and managers.

The *Public Sector Management Act 1995*, contains formal processes whereby employees can lodge grievances against administrative decisions. The Act requires that Chief Executives should, in the first instance, attempt to resolve the grievance through conciliation, but, failing that, the grievance would be heard by an independent Tribunal constituted under the Public Sector Management Act. The Tribunal can recommend various course of action to a Chief Executive in order to resolve the Grievance.

The use of external mediators to resolve grievances is one method which has been adopted by Chief Executives in some instances. The establishment of a panel of external mediators on a more formal basis would not appear to be justified.

41. **The Hon. T.G. CAMERON:**

1. Will the Government, as a matter of urgency, correspondingly increase its funding to the Employee Ombudsman's Office considering the workload has nearly doubled since 1994-95?

2. If not, why not?

The Hon. R.I. LUCAS: The Employee Ombudsman's Office was provided with an initial base budget of $270 000 in 1994-95, with an additional one-off allocation of $95 000 for the set-up costs of accommodation and office equipment. From that time the base budget has been increased to $426 000 in 1997-98, an overall rise of nearly 60 per cent, as shown in the following table:

Employee Ombudsman's Office Budget

	94-95	95-96	96-97	97-98
Recurrent base	$270 000	$360 000	$418 000	$426 000
one-off accommodation setup	$95 000	—	—	—

Any request from the Employee Ombudsman's Office for further funding increases would be assessed on its merits during the Budget process.

SPEEDING FINES

42. **The Hon. T.G. CAMERON:**

1. In 1993-94, 204 108 speeding fines were issued and 168 301 were expiated—

(a) How many of those that were not expiated resulted in a community order being issued by the courts?
(b) How many of these community orders were completed?
(c) How many were either ignored or not completed?

2. In 1994-95, 198 1148 speeding fines were issued and 151 202 were expiated—

(a) How many of those that were not expiated resulted in a community order being issued by the courts?
(b) How many of these community orders were completed?
(c) How many were either ignored or not completed?

3. In 1995-96, 193 302 speeding fines were issued and 39 256 were expiated—

(a) How many of those that were not expiated resulted in a community order being issued by the courts?
(b) How many of these community orders were completed?
(c) How many were either ignored or not completed?

The Hon. K.T. GRIFFIN:

1. (a) Number of Community Service applications granted 4909
Number of Community Service applications made 5109
(b) Number of undertakings fully completed 1101
Number of undertakings partially completed 634
(c) The number of community service orders ignored or not completed as at 30-6-94 3174

Note: Due to the delay between the imposition of the fine and the application and completion of community service, the figures released in parts (a), (b) and (c) may not be related to those offences occurring in this financial year. This submission applies to the answers given for questions 2 and 3.

2. (a) Number of Community Service applications granted 5646
Number of Community Service applications made 6075
(b) Number of undertakings fully completed 2175
Number of undertakings partially completed 1221
(c) The number of community service orders ignored or not completed as at 30-6-95 2250

3. (a) Number of Community Service applications granted 4838
Number of Community Service applications made 5278
(b) Number of undertakings fully completed 1775
Number of undertakings partially completed 1032
(c) The number of community service orders ignored or not completed as at 30-6-96 2031

MEMBERS' INTERESTS

The PRESIDENT: Pursuant to section 3(2) of the Members of Parliament (Register of Interests) Act 1983, I lay upon the table the Registrar's Statement, February 1998, prepared from primary returns of new members of the Legislative Council.

The Hon. R.I. LUCAS (Treasurer): I move:

That the Registrar's Statement be printed.

Motion carried.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Reports, 1996-97—
Department of Education and Children's Services
ETSA Contributor and Non-Contributory Superannuation Schemes
Regulations under the following Acts—
ASER (Restructure) Act 1997—The Site
Fees Regulations Act 1927—Education—Overseas Students
Land Tax Act 1936—Records and Certificates
Public Corporations Act 1993—
Interpretation
Land Management Corporation
Senior Secondary Assessment Board of South Australia Act 1983—Courses and Fees
Stamp Duties Act 1923—Sale of Stamps
Corporation By-laws—
City of Adelaide—
No. 1—Interpretation of By-laws
No. 2—Streets and Public Places
No. 3—Traffic
No. 4—Street Traders
No. 5—Parklands, Public Squares and the River Torrens
No. 6—The Central Market
No. 7—Lodging Houses
No. 8—Nuisances, Health and Safety
No. 9—Continuation of Existing Licences
No. 10—Moveable Signs
District Council By-laws—Yankalilla—
No. 16—Horses on the Foreshore and Sand Dunes
Local Government Act 1934—Section 208 Authority—Eastern Metropolitan Regional Health Authority Incorporated—Constitution
Local Government Act 1934—Rules—Superannuation Board—
Contributions Tax
Derivatives
Extension of Benefit Cover
Spouse Members
Public Parks Act 1943—Disposal of Public Park

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

Reports, 1996-97—
Industrial Relations Advisory Committee
National Crime Authority
Occupational Health, Safety and Welfare Advisory Committee
Witness Protection Act 1996—Section 28
Regulations under the following Acts—
Associations Incorporation Act 1985—Various
Dangerous Substances Act 1979—The Code
Dog Fence Act 1946—Prescribed Rate
Electoral Act 1985—Failure to Vote Form
Electrical Products Act 1988—Principal
Fisheries Act 1982—
Expiation of Offences
White Pointer Shark
Gas Act 1997—Various
Livestock Act 1997—Principal
Meat Hygiene Act 1994—Codes
Occupational Health, Safety and Welfare Act 1986—Opal Mining
Partnership Act 1891—Limited Partnerships
Rules of Court—
Industrial Relations Court—Industrial and Employee Relations Act 1994—Industrial Proceedings Rules 1995
Magistrates Court—Magistrates Court Act 1991—Amendment No. 12
Supreme Court—Supreme Court Act 1935—Amendment No. 61
Remuneration Tribunal—Report Relating to Determination No. 1 of 1998
Workers Rehabilitation and Compensation Act 1986—
Workers Compensation Tribunal Practice Directions—Dispute Resolution

By the Minister for Consumer Affairs (Hon. K.T. Griffin)—

Regulations under the following Acts—
Liquor Licensing Act 1997—
Long Terms Dry Areas—
Port Adelaide
Port Augusta
Port Lincoln
Short Term Dry Areas—Various
Retail and Commercial Leases Act 1995—Exclusions

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

Reports, 1996-97—
Board of the Botanic Gardens Adelaide
Coast Protection Board
Department of Environment and Natural Resources
National Environment Protection Council
Native Vegetation Council
Patawalonga Catchment Water Management Board
Department of State Aboriginal Affairs

Report, 1996—
Committee appointed to examine and report on Abortions notified in South Australia
Report, 1997—
State Heritage Authority—Second Annual Report for year ended 30 June 1997
Regulations under the following Acts—
Controlled Substances Act 1984—
Drugs of Dependence
Poisons
Prohibited Substances
Development Act 1993—
Building Rules
Smoke Alarms
Harbors and Navigation Act 1993—Restricted Areas—Goolwa
Motor Vehicles Act 1959—
Farm Machine
Notification to Registrar of Change of Address
Passenger Transport Act 1994—
Flag Falls
Small Passenger Vehicle
Prevention of Cruelty to Animals Act 1985—Code of Practice—Circuses
Road Traffic Act 1961—
Clearways and Bus Lanes
Declaration of Hospitals
Obedience to Signs
Signalling Devices
Southern Expressway
Water Resources Act 1997—Revocation of Proclaimed Wells Lacepede
Report on the Interim Operation of a Development Plan Amendment—Commercial (Monarto South) Zone Plan Amendment Report by the Minister for Transport and Urban Planning
Environment Protection (Vessels on Inland Waters) Policy 1998

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

Reports, 1996-97
Disability Information and Resource Centre
The State Theatre Company of South Australia.

ASER

The Hon. R.I. LUCAS (Treasurer): I seek leave to make a statement about the sale of ASER assets withdrawn from sale.

Leave granted.

The Hon. R.I. LUCAS: I make a statement relating to the restructure and sale process for the Adelaide Station and Environs Redevelopment complex, otherwise known as ASER. Members will recall that in August last year the Government announced that the ASER complex, which includes the Adelaide Casino, the Hyatt Regency Hotel and Riverside office building, would be offered for sale. As part of sale preparation process an ASER Restructure Bill and Casino Bill were presented to and passed by Parliament to enable the property arrangements relating to these assets and the existing licensing arrangements relating to the Casino to be simplified and rearranged.

Following the Government's announcement of the proposed sale, the ASER Project Steering Committee was established to manage the restructure and sale process on behalf of the joint vendors—Funds SA and Kumagai (SA) Pty Ltd. A two-stage bidding process, including minimal conditional bids and final unconditional bids, took place during the second half of 1997, with final bids closing in late January.

Bids have been assessed by an assessment committee comprising representatives of Treasury and Finance and Funds SA and chaired by Mr Michael Abbott QC. There has been widespread local and overseas interest in the ASER asset since the sale process commenced in August. This was reflected in the large number of conditional bids received in October and, indeed, the short list of bidders selected by the assessment committee to proceed to the final round.

The volatile and uncertain financial climate globally, particularly late last year, proved, however, not to be conducive to the highly competitive bidding process that we were looking forward to after first round bids had been received. Consequently, the final bids did not truly reflect the value of the assets.

Following assessment of the final bids, the Government has decided upon the recommendation of the assessment committee not to accept any of the offers received and to discontinue the current sale process. The main factors influencing our decision to withdraw the asses from sale are:

· the adverse market conditions resulting from the significant depreciation of Asian currencies and the severe weakening in South East Asian capital and property markets during the sale process, which affected the nature and value of the final bids;

· the negative perception of Australian casinos arising from the recent poor operating performance of a number of high profile interstate casinos (particularly as a result of a decrease in 'junket' business from South East Asia). Whilst the Adelaide Casino's business is based upon the local market and was not harmed by a fall-off in 'high roller' visitors from overseas, the general negative perception of the domestic casino industry dampened the competitive bidding process both from local and international investors; and

· the solid and sustained improvement in the financial performance of the ASER assets. Management and marketing changes at the Adelaide Casino—combined with a capable and dedicated work force—have achieved a desired turnaround in performance with management forecasting the highest returns for several years.

Accordingly, the Government is not prepared to enter into a fire sale of the assets.

A number of interesting and innovative concepts arose during the bidding process, and the Government is prepared to look at sale opportunities that may arise at some stage in the future. A significant milestone of the ASER project has been the comprehensive restructuring of the complex ASER structure. When it was first established, the structure reflected expectations that the ASER assets would remain in common ownership. Accordingly, various legal and technical aspects of the complex required clarification in order to separate the assets from an integrated development into a series of individual assets and to identify and regulate the shared infrastructure. The restructure, which has been undertaken concurrently with the sale, has addressed these fundamental issues.

It is anticipated that the restructure will be finalised by this April and will facilitate future management of the assets through improved clarity and flexibility in ownership arrangements. I should also advise members that in November 1997 Funds SA and Kumagai agreed to a rearrangement of ASER's liabilities on commercial terms. One element of the rearrangement provided for Funds SA to assume all liabilities of the ASER entities in exchange for an up-front payment by Kumagai. Kumagai remains a 50 per cent unit holder in ASER but has no exposure to the entities' liabilities. Following the liability rearrangement, Kumagai withdrew from an active role in the sale process.

The other element of the rearrangement was a process for winding up the ASER unit trusts in the expectation of a successful sale process. Because the assets will now not be sold at the offered prices, it is expected that Funds SA will retain the trusts for so long as it is necessary to do so by purchasing Kumagai's unit holdings. Pursuant to the 1997 arrangements and given the conduct of the sale process to date Funds SA will not have to make any payment to Kumagai for its unit holdings. The overall effect of the rearrangement with Kumagai is that Funds SA will become the sole investor in the ASER assets and is therefore in a strong position to determine future asset management, restructure and business improvement strategies. I should remind members that the Government took action in 1996 to isolate the impact of the ASER investment from the return to members of the superannuation funds by transferring the ASER assets to the employer accounts. Accordingly, contributors are unaffected by the outcome of the sale process.

With the Riverside building being close to fully let, reasonable hotel occupancy and improving Casino profitability, the ASER group is now—and has been for some time—operating on a cash flow positive basis, meeting all financial responsibilities as they fall due. In addition, firm bookings held at the Convention Centre augur well not only for the centre but for the adjoining Hyatt and Casino operations. Consequently, Funds SA, in conjunction with the ASER Board, can comfortably review its management options and consider strategies for further business improvements.

I can advise members that the Chair of the Assessment Committee, Mr Michael Abbott QC, and the Probity Auditor, Mr Brenton Ellery, have confirmed that the tender process was conducted in a fair, equitable and proper manner and that the outcome of the sale process was in no way due to any defect in the process or in the framework within which the tender of the assets was conducted.

In summary, the volatility in global capital markets late in 1997, particularly in South-East Asia, has both directly and indirectly worked against a favourable outcome in the ASER sale process notwithstanding the very substantial effort of those involved with the restructure and sale process over the course of 1997.

The Government is not prepared to contemplate a sale of the ASER assets at unrealistic prices and, given the positive performance outlook, it is comfortable with retention and management of the assets by Funds SA in the context of its broader portfolio management charter.

In conclusion, I believe it is important that on behalf of Funds SA, ASER and the Government I place on the record our appreciation of the outstanding contribution of ASER management and staff in achieving the substantial turnaround in the ASER group's performance. In what, no doubt, has been a difficult period for them, they have proved to be a valuable asset in themselves and their commitment and dedication should not go unmentioned.

ELECTRICITY, PRIVATISATION

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a copy of a ministerial statement made in another place today by the Premier on the subject of electricity assets.

Leave granted.

SCHOOL ZONES

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a ministerial statement on the subject of school zones.

Leave granted.

The Hon. DIANA LAIDLAW: This Government has made a major and long-term commitment to improve road safety conditions for school children as part of a comprehensive campaign to reduce road deaths and injuries overall. It is a fact of life that unprotected road users, particularly our young people and our elderly, have become more vulnerable on our road network system as more and more people use motor vehicles. As a civilised society we have to ask ourselves, 'Do we really want the motor vehicle to reign supreme over and above the interests of all other users on our road system?' Certainly in respect of school children the answer has been 'No' for a long time.

For well over 20 years in South Australia a maximum speed limit of 25 km/hr has been established in law for motor vehicles travelling near schools when children are present. Children, their parents and teachers are entitled to believe that this maximum speed will be respected and enforced. Yet I have been concerned for some time that there has been an increasingly casual attitude amongst motorists to observing the 25 km/hr speed limit.

For this reason in 1995 I established the Pedestrian Facilities Review Committee which included representation from the RAA, police, local government, school associations, the Department of Education and Children's Services and the Department of Transport. The committee recommended many road safety initiatives in the best interests of pedestrians of all ages, including the need for more roadside information so motorists could make more informed safety decisions when near schools. Until this time roadside signage simply stated 'school' and 'end of school zone'. It was assumed that all motorists knew that it was an offence under section 49 of the Road Traffic Act that to exceed 25 km/hr between these signs at any time of the day when children were present or near the road or footpath travelling to and from school was an offence.

The committee recommended that the signs indicating school zones should be supplemented by signs indicating the relevant speed limit (25 km/hr), plus specific hours in which maximum speed applied. I accepted the committee's recommendation based on legal advice that section 32 of the Road Traffic Act provided for the Minister to fix a speed limit for a portion of a carriageway. At the time the Crown Solicitor indicated that this approach was valid although the validity of the zones to operate part-time was open to challenge. The right to challenge the law in our courts is a fundamental right in our democratic system.

In the meantime these new signs which met Australian standards were successfully trialled during 1996 at a location in Novar Gardens. Subsequently, local councils were authorised to act as the Department of Transport's agents in replacing the old signs and, after consultation with schools, to determine within specified parameters the relevant hours to be indicated on the signs. The new signs were in place by the beginning of the 1997 school year.

On 30 January 1998, a magistrate, Ruth Hayes, in the matter of Greenhalgh acquitted the defendant, who had been charged with exceeding the speed limit outside of school on the grounds that the Minister had no power to create a part-time speed zone. The Government determined last Friday not to take this case through a costly and protracted appeal

process. Rather, we have opted to act urgently to overcome the uncertainty arising from the magistrate's decision in order to restore community confidence that speed zones can be effectively enforced to ensure the safety of children. The Government will introduce legislation for this purpose in the current session.

The new legislation will also take into account a number of issues arising from recent deliberations of the Pedestrian Review Facilities Committee, which I reconvened last September. Whilst the present school zones were introduced on the recommendation of that committee, it now transpires that it has been difficult to gain agreement among committee members as to specified times when school zones should operate and as to the effective display of these times to motorists. Accordingly, the proposed legislation will provide that the 25 km/h speed limit applies to speed zones when children are present, on or near the road or footpath. The Government has resolved not to appeal Magistrate Hayes' ruling. Since there will be no appeal, the Government proposes that no further proceedings be taken to enforce expiation notices issued in relation to school zone speeding offences.

I am disappointed and frustrated at this and I appreciate that motorists who have expiated their offences may feel a sense of injustice that their fees may not be refunded. However, these cases have been finalised by the expiation of the offence and motorists have waived the right to contest the decision. I advise that police patrols will continue actively to police the speed of motorists in school zones. Persons who drive at an irresponsible speed will be charged as appropriate with driving without due care or driving at a speed dangerous to the public and other offences. The duties of motorists will still be guided by the presence of the 25 km/h speed zones and the reasonable expectation of pedestrians that vehicles will be proceeding at or below this speed. I trust that a legal technicality will not lead to a perception that a speed above 25 km/h is acceptable at school zones and I call on all South Australians to call on the safety of children first.

QUESTION TIME

GRAND JUNCTION ROAD

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Transport a question about the planned clearway for Grand Junction Road.

Leave granted.

The Hon. CAROLYN PICKLES: Transport South Australia has announced plans to make Grand Junction Road, between Port Road and South Road, a clearway for a 12-hour period between the hours of 6 a.m. and 6 p.m. This plan has angered not only the Port Adelaide Enfield Council but, more importantly, local traders along the section of the road concerned about the clearway effect on their businesses. Residents in the area are also concerned about the effect of the clearway. The Minister's original timetable for the introduction of the clearway was March this year, but I now note in a press release headed 'Clearway to be discussed' of 20 January 1998 that the Minister has now changed her mind and it appears unlikely that there will be a firm decision on the clearway proposal before the middle of the year. A month after news of the Minister's proposed clearway emerged, she has finally recognised the need for community dialogue.

The Hon. Diana Laidlaw interjecting:

The Hon. CAROLYN PICKLES: You did not attend the meeting last week or send a Government representative.

The Hon. Diana Laidlaw: There was a departmental representative.

The Hon. CAROLYN PICKLES: That is not a Government representative.

The PRESIDENT: Order! Ask the question.

The Hon. CAROLYN PICKLES: My questions to the Minister are as follows:

1. Has the Minister changed her original timetable from March to the middle of the year as an acknowledgment of the need to undertake long overdue public consultation, which she failed to do initially?

2. Does the Minister acknowledge her mismanagement of this issue has caused much trauma for local residents and small business operators?

3. Is the Minister prepared to pay for the construction of parking bays into footpaths and other alternative parking arrangements for businesses adversely affected by the introduction of the clearway?

4. Will the Minister heed the issues that were raised by residents at a public meeting held, I understand, last Wednesday?

The Hon. DIANA LAIDLAW: I gave a briefing to the honourable member at her request about this matter before the public meeting so that she would be better informed on the subject, but it is clear that she did not listen or did not care to listen. This proposal is based on objective criteria that has been established Australia-wide for when clearways are considered to be appropriate for certain roads. It is not something that the department has dreamt up out of the blue and it is not something that I originated. It is something that, by objective standards and in terms of the calculation of the standard, the department has assessed should be canvassed with the community because of the fact that over 35 000 vehicles use that road at various times.

For that reason the department went to the community and the council to canvass the matter. It is now out for community consultation, of which the honourable member is well aware. It is for that reason that a residents' meeting last week was attended by Department of Transport officers so that they could canvass the matter with the community. The department will take this into consideration, as I will if any proposal comes to me on this matter. Generally it would not come to me because it is a delegated authority. That has always been so for any Minister for Transport in relation to such matters.

Because of the honourable member's interest in this matter I will take an interest in it. The community's concerns will be addressed by the department and by me. I have never been informed—and I do not know from where the honourable member got her advice—that the consultations were to be completed or undertaken by March. The advice that I received was that the process was to be undertaken by July. Perhaps the honourable member is becoming confused; she is new at the job and may well be confused. In fact, the community is pretty confused about who the shadow Minister is. The Hon. Terry Cameron seems to be very prominent. Perhaps the Hon. Carolyn Pickles will not talk to him to get the benefit of his wisdom on these things.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: I think that the honourable member is confusing two unrelated issues—the consultation regarding the clearway which will be undertaken over a period until July—

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: —and then the entrance of A trains or A doubles in the northern areas of Adelaide. I suspect that this has been done quite deliberately by some people and probably by the honourable member to create mischief for her own purposes—I am not sure. There is no relationship between the two issues. I believe in terms of—

The Hon. L.H. Davis interjecting:

The Hon. DIANA LAIDLAW: Yes, she has confused herself and I believe that she is trying to confuse the public, too. There is no relationship between those two issues. The honourable member already knows that. In terms of the consultation, if it is deemed that the clearway will go ahead and that any small business owner will be disadvantaged the department has undertaken that there will be the provision of parking bays. The honourable member knows that, as do local residents and local businesses. That was related to the public meeting. I repeat: as far as I am aware the timetable has not changed. As in any such matter, I would always heed the wishes of the community in terms of public consultation periods.

DUBLIN LANDFILL

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about the Dublin landfill.

Leave granted.

The Hon. P. HOLLOWAY: In 1994 an environmental impact statement was ordered in relation to an application by P&M Borrelli and Sons for the development of a solid waste landfill depot at Dublin. Guidelines for the EIS were issued and a response document prepared by the proponents was released in June 1997.

The environmental impact assessment report prepared by the Minister for Transport and Urban Planning was released in November 1997, and approval for the proposed landfill was granted on 29 January last. In correspondence to Dublin residents, the South Australian Fishing Industry Council, which is the peak body serving the fishing and seafood industry, stated that:

> . . . the potential for leachates entering the coastal waters is posing a very serious threat to our valuable fishing industry. The location of the proposed 1 000 acre Dublin facility is especially problematic, as it is to be located immediately north of one of the State's valuable fish breeding grounds.

In a letter to the Minister for Primary Industries dated 30 January, I asked him to provide me with any results of the undertaking to investigate the impact of the proposed landfill on the local fishing industry and what action had been taken to ensure that leachate does not have an adverse effect on fishing stocks in the gulf. The Minister's office responded to my letter, stating that this matter comes under the responsibility of the Minister for Transport and Urban Development. Therefore, my questions to the Minister are:

1. Given that her colleague has stated that this issue is not his responsibility, can the Minister say whether any independent scientific assessments were carried out to investigate the risk to the fishing industry posed by the landfill at Dublin?

2. If not, will the Minister explain why the risk to the fishing industry (which is worth $200 million a year to the State as a whole) was not taken more seriously?

3. Will the Minister give the Council an assurance that the local fishing industry will not be at risk from the establishment of the landfill; and will she provide the evidence on which that assessment is based?

The Hon. DIANA LAIDLAW: I thank the honourable member for his question. As he indicated in his preamble, this development proposal has been has been around for four years. The EIS and the public consultation process were undertaken. I understand that at no time during that whole public consultation period did the Fishing Industry Council participate or raise any concerns. To my knowledge I have not received any correspondence from the Fishing Industry Council, but I was presented with a copy of its letter to the residents when I met with residents of the Dublin area some weeks ago.

So, the only formal correspondence and representations have been made by the Fishing Industry Council to the Dublin residents and in turn forwarded to me. It does not mean that I do not take those matters seriously, but I do believe that Fishing Industry Council could have participated if it had so wished during the public consultation period that is provided for by the very thorough EIS process.

I have been advised that the issues concerning leachates were raised by other people in the EIS process. Those issues were thoroughly assessed by the EPA in the preparation of the response document, and those responses have been released for public comment. I do not have those responses with me today, but I will certainly provide them to the honourable member if he does not have a copy of the response documents. With regard to the honourable member's more detailed questions, I will also assess the EIS document and provide a reply.

UNEMPLOYMENT AND HOMELESSNESS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister—

The Hon. Diana Laidlaw: You all must have missed me over Christmas and the new year.

The Hon. T.G. ROBERTS: No, this one is only a handball—for Human Services, a question about urban unemployment and homelessness.

Leave granted.

The Hon. T.G. ROBERTS: The issue of urban unemployment and homelessness has manifested itself not only in problems with derelict buildings within the inner city area which culminated in a major fire in the old News building but also in all the other problems associated with alcohol abuse within the city squares and city precinct which seem to be occurring again. The responses by some who believe that declaring those areas dry will be the solution do not go to the heart of the problem. They try to arrest the disease, but that will certainly not provide a long-term solution to the problems that the inner city area of Adelaide faces. The Lord Mayor, Jane Lomax-Smith, has made her opinions freely known on talk-back radio, and I agree in part with the solutions that she has suggested. Other proposals include declaring dry areas within the inner metropolitan and inner city area, but I suggest that they will only be tampering with the edges.

I suggest that it may require a collective view, where all the organisations, church groups and individuals who have an interest in the outcomes of these issues—including the Opposition Party representatives—get together with local government to suggest a number of solutions. Some of the solutions that have been put to me include making available to people work programs or interest groups so that they can gather together in those programs and so that the sorts of discussions that take place in relation to alcohol can also involve other areas of pursuit.

My questions are, first, whether the Minister will give a commitment to provide those resources in order to address the problem of alcoholism and homelessness in the city area, and, secondly, whether the Minister will give a further commitment to work with those groups and individuals, including the Opposition Parties, to provide permanent solutions to these problems.

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

MARITIME SAFETY STANDARDS

In reply to **Hon. R.R. ROBERTS** (4 December) and answered by letter on 12 February 1997 regarding maritime safety standards around the waters of Boston Island near Port Lincoln.

The Hon. DIANA LAIDLAW:

1. I, as Minister, have residual powers to protect navigation and restrict use of waters where the South Australian Ports Corporation Act is silent. The South Australian Ports Corporation is principally responsible for regulating and restricting use of water within a Port vested in the SA Ports Corporation.

2. The waters in question are waters within a Port vested in the SA Ports Corporation and therefore come within their jurisdiction. Section 25(3) of the SA Ports Corporation Act confers equivalent powers to the Corporation as section 23(2) of the Harbors and Navigation Act confers to the Minister.

3. Section 25(3) of the SA Ports Corporation Act empowers the Corporation to direct a third person to establish maintain and operate navigational aids only where that person carries on a business involving the mooring, loading or unloading of vessels.

As vessels are used to load and unload pilchards on a regular (daily) basis to feed the tuna being farmed, it is considered that tuna farming, as a business involving the mooring, loading and unloading of vessels meets the criterion within Section 25(3).

The SA Ports Corporation also has a discretion under section 25(1) of the SA Ports Corporation Act to establish such navigational aids as it considers necessary or desirable for the safe navigation of vessels within the Corporation's ports.

Current Marine Finfish Farming Licences issued by the Department of Primary Industries and Resources SA place the onus, as a condition of the licence, on licence holders to ensure that lease boundaries and all structures on site are marked in accordance with the schedule attached to the licence.

Default in the performance or observation of any condition contained in the licence agreement may lead to forfeiture and cancellation of the licence, following one month's written notice requesting compliance.

4. Over the last two years, consultation has occurred with the Fishing Industry, Transport SA and the SA Ports Corporation particularly relating to tuna farming in the Port Lincoln area.

A decision was made, late 1997, that officers of the Marine Safety Section of Transport SA and the SA Ports Corporation would develop strategies designed to improve and monitor all aquaculture leases.

I am advised that the SA Ports Corporation has, to date, identified particular problems with some tuna farms in and around Boston Island and intends to approach the Department of Primary Industries and Resources SA with a request to enforce the licence requirements in regard to lighting and marking farm areas. This enforcement request was forwarded late January 1998, with photographic evidence obtained on 7 January 1998.

The honourable member's question has highlighted the need for legislation in this area to be reviewed. Both the SA Ports Corporation Act and the Harbors and Navigation Act are listed for review in the 'Competition Principles Agreement Legislation Review Timetable'. It will be necessary to consult and cooperate with the Minister for Government Enterprises when these reviews are undertaken.

Discussions are continuing between Primary Industries & Resources SA, the Office of Government Business Enterprises and Transport SA to resolve these issues.

TRANSPORT BUDGET

In reply to **Hon. CAROLYN PICKLES** (2 December).

The Hon. DIANA LAIDLAW: Further to the information I provided in answer to your Question Without Notice of 2 December 1997, regarding the Transport Budget, I advise—

(a) Upon discovering the accounting error, Transport SA (formerly the Department of Transport) prepared a revised program in accordance with the approved budget. As the error was corrected so promptly, there are no unfunded liabilities or over expenditure: Transport SA will achieve its overall budget target as published in the Parliamentary Budget Papers.

(b) Transport SA has approximately 600 capital or recurrent projects programmed within any given financial year. Therefore, it would be a very costly and time consuming exercise to provide details on every single project. However, in making the adjustments, Transport SA applied the following general principles—
- All existing contracts will be honoured;
- All major Government commitments will be maintained; and
- Service levels in customer service areas will be retained.

All projects programmed in the 1997-98 Budget that have been deferred, are to be considered as part of the 1998-99 Budget.

(c) A summary of the expenditure deferrals is as follows:
- Planning activities and other long term project investigations—$3.7 million;
- Corporate support activities, including optional training and development and computer system upgrades—$4.5 million;
- Routine maintenance activities—$1.7 million;
- Reseal and rehabilitation works—$9 million;
- Registration and Licensing—$1.1 million;
- Minor road work projects—$4.5 million; and
- Major road work projects—$1 million.

CONFLICT OF INTEREST

In reply to **Hon. M.J. ELLIOTT** (23 July 1997).

The Hon. DIANA LAIDLAW: The edition of Environment South Australia published in late 1997 contained an article under the heading 'Conflict of Interest'. This article quoted remarks made by the Hon Mike Elliott MLC in a Parliamentary debate in July 1997. These remarks dealt with issues associated with conflict of interest, and were delivered on the last day of the Parliamentary sitting prior to the last election. As a result there was no ability to respond to those remarks in the Parliament. The former Minister responsible for the planning area responded to these remarks in writing to Mr Elliott.

Given that Environment South Australia has now published Mr Elliott's remarks, I suggest the response by the former Minister, the Hon Stephen Baker be also noted in Parliament. The following is the text of that response:

'I refer to your recent remarks reported in *Hansard* concerning the Presiding Member of the Development Assessment Commission. I must express my disappointment at these remarks particularly given there has been no opportunity to publicly respond with the rising of Parliament.

As you may be aware, Mr Doug Wallace was appointed Presiding Member to the Commission from January 1996. The criteria for appointment set out in the Development Act requires the Presiding Member to be a person with wide experience in planning, building or environmental matters. Given that the position is not full time, it is inevitable that the occupant of the position will have other commitments. It is also important that the occupant be senior and well respected in the planning community. Therefore, on occasions, there will be potential for conflict of interest. This situation will apply to all boards and committees in Government where it is in the interest of the community to have experienced people serving on such bodies. Government does not benefit from unsubstantiated doubts raised about these people.

The Development Act recognises the potential for conflict of interest. Section 13(5) requires that a member of the Commission must not take part in deliberations or decisions where there is a personal interest, or a direct or indirect pecuniary interest in an

application before the Commission. Any perusal of the minutes of the Commission will show that Mr Wallace has declared where there is potential for such an interest. In addition Section 102 of the Act provides that it is an offence for confidential information to be used for private benefit.

The Commission minutes show that the Presiding Member has declared a potential conflict of interest on an average of about 1 in 20 applications which come before the full Commission. The Commission itself considers only five to ten percent of applications, as the majority are handled under delegation to staff of the Department of Housing and Urban Development.

On a small number of occasions the Presiding Member has declared potential for a conflict of interest through 'association'. Such a conflict is not personal or direct, but relates to situations where other people within the organisation for which Mr Wallace works have had some involvement in a matter which has come before the Commission. On perhaps two or three of these occasions since January 1996 the Commission has been unable to form a quorum due to three of its members having some form of potential conflict of interest. On these occasions the potential conflict of interest has been recorded in the minutes, and the Commission members have selected the member with the most remote potential conflict to participate in the decision in order to form a quorum. This has only been done with the agreement of all Commission members and where the interest is 'association' rather than direct. There is legal precedent for this practice as it enables a decision to be made. Without this practice a development application could not obtain a legal decision.

Allegations have also been made about employment of staff in the Department of Housing and Urban Development. There has been only one occasion on which the Presiding Member of the Commission has been a member of a selection panel dealing with staff appointment. The Department seeks to ensure the best staff are selected for positions, and has found it useful for senior positions to have members on the panels with experience outside the public service. This is seen as a most desirable practice to ensure senior staff are selected by a panel which includes perspectives from outside Government. As pointed out, on only one occasion has Mr Wallace been on a selection panel, and in this case he was one of four panel members. I regard this practice as desirable and do not apologise in any way for the Department choosing this manner of selection.

I am confident that the checks and balances applying to the work of the Commission are appropriate and I do not in any way condone the inferences you have made against the work of the Presiding Member in the exercise of his role on the Commission. It is inevitable that potential conflicts of interest will arise and it is my strong view that it is better to establish important statutory bodies, boards and committees which include relevant private sector expertise, than to establish such committees with only permanent public servants or external expertise that is either outdated or not relevant.'

TRANSPORT, CONCESSION TICKETS

In reply to the **Hon. SANDRA KANCK** (3 December).

The Hon. DIANA LAIDLAW:

1. It is not mandatory for South Australian drivers (except for L & P plate drivers) to carry their driver's licence while driving within South Australia. Police do not tend to use a 48 hour period of grace for driver's licence checks because of administrative and associated costs. Rather, if required, they use hand held mobile data terminals to provide vehicle registration and licence details instantly.

For your interest, last year the Passenger Transport Board (PTB) completed an extensive review of all expiation procedures, which included consideration of a period of grace for proof of concession eligibility. The PTB examined the legislation and worked through administrative and operational matters. The review determined that a generous 'quasi' period of grace already existed for concession card holders. In this regard, adults may receive an expiation notice on the second offence, depending upon circumstances. However, in the case of juveniles, two prior warnings are given before expiation action is contemplated.

2.(a) During the period 1 January 1996 to 31 December 1996, 20 080 people were reported for concession card offences that resulted in the issue of 2 545 expiation notices.

(b) A total of 431 expiation notices were appealed. Of this number 156 were upheld and the expiation notice subsequently withdrawn.

(c) I am advised that the computer software used by the PTB for database records does not enable dissection of offences forwarded to the court for action. Consequently, I am unable at this time to provide this information.

(d) Failure to pay the expiation notice fee within 60 days incurs a late payment fee of $30. Court costs associated with unpaid fees total $90.

3.(a) HECS is an education cost paid by the student and is not income. Therefore I assume that you are referring to student income such as Austudy or Abstudy, or other sources of income such as part-time work. In these cases, various rates of income apply and consequently, variable percentages. Such information would need to be obtained from the relevant Federal Government Department.

(b&c) The existing procedure in relation to the pensioners and concession card infringements, is for inspection staff to give a friendly reminder. However, as fare evasion is of serious concern to the community in general, and operators in particular, this level of leniency may not necessarily apply if the pensioner is not in possession of a validated ticket or relevant pass. Should a report be submitted, due cognisance is taken of the pensioner's circumstance with the outcome invariably being a written caution for the first offence. However, a reported second offence occurring within two years of the first offence may result in Expiation Notice action, depending on the circumstance. During 1996, only 88 persons aged 55 or over were reported for concession card offences—or 0.43 per cent out of a total of 20 080 offences.

Overall, the appeal process now in place for concession card offences is regarded as fair and reasonable—and especially so considering concession fares in South Australia are the best value in Australia! To introduce a further period of grace would be an administratively cumbersome procedure which would impose unnecessary additional costs on taxpayers—costs which could be better spent on further service improvements.

ROAD DEATHS, COUNTRY

In reply to the **Hon. T.G. CAMERON** (9 December).

The Hon. DIANA LAIDLAW:

1. The Government is most concerned about rural road safety, as it is about road safety generally in this State.

Your assertion that "the non-metropolitan toll has gone through the roof" is wrong—and irresponsible. In fact the road toll in this State, in both metropolitan and rural areas, generally has been falling since the 1970s.

In particular, in the past 10 years fatality crashes have fallen by 50 per cent in the metropolitan area and by 42 per cent in rural areas. During the same period, casualty crashes have fallen by 29 per cent in both metropolitan and rural areas.

Historically, there is a disproportionately high incidence of fatality crashes in rural areas compared to the metropolitan area. This is due to the nature of rural crashes, where comparatively higher speeds occur on rural roads, and where vehicle occupancy rates tend to be higher. Other regional factors, such as longer patient retrieval and treatment times, can result in a higher incidence of life threatening injuries.

2. The following rural road safety initiatives have been undertaken by the Government over the past two years.

Rural Road Seals and Upgrades

Unlike previous Labor Governments, this Government has made a major commitment to the sealing of rural roads, in South Australia. We have developed a 10 year, $60 million project to seal all rural arterial roads in incorporated (Council) areas by the year 2004.

Already $34.2 million has been invested, with sealing work well underway or completed on the following roads:

· Bura-Morgan	60 km to be completed 1997-98
· Brinkworth-Blyth	8 km underway
· Elliston-Lock	72 km underway
· Kimba-Cleve	55 km underway
· Hawker-Orroroo	68 km underway
· Lucindale-Mount Burr (north)	5 km completed
· Mannum-Bowhill	55 km completed
· Morgan-Blanchetown (north)	10 km completed
· Port Wakefield-Auburn	4 km completed
· Spalding-Burra	7 km completed

During the next four years, the Liberal Government will complete sealing all of the above roads and commence work on all the following roads to ensure they are also sealed by the year 2004:

· Booleroo Centre-Jamestown	33 km

· Bowhill-Walker Flat	21.5 km
· Burra-Eudunda	29 km
· Lucindale-Mount Burr (south)	23 km
· Morgan-Blanchetown	26 km
· Snowtown-Magpie Corner	15 km

In addition, the Government has allocated $15m to seal the South Coast Road, Kangaroo island and completed Tourism Road strategies for the Flinders Ranges (upgrade under way) and the Barossa Valley (upgrade subject to further consideration by local councils).

Road Environment Initiatives

This Government has introduced a Statewide program to train State government, Local government and private sector consultants in road safety auditing of roads. Currently, Transport SA is auditing all rural roads under its jurisdiction.

Further State Government funds have been provided for an in-depth study of rural road crashes to investigate causes. A major component of the study, by the National Health & Medical Research Council Road Accident Research Unit at the University of Adelaide, will be the identification of roadside hazards. Thorough site investigations will be relevant in terms of possible treatments at those particular sites, and be if assistance to road safety auditors.

Meanwhile, Transport SA is developing a Statewide strategy for up-grading and rationalising roadside rest stops. Already work has commenced to upgrade five rest stops on the Stuart Highway to 'high level' status and to introduce new truck stops.

Transport SA has also developed an on-going program (based on crash and blackspot analysis) for:

- shoulder sealing;
- audible edge line marking treatments;
- raised pavement markers; and
- increased guard railing;

Federal funding has been gained for the construction of overtaking lanes on the Dukes Highway and National Highway one. The Eyre Highway is being widened East of Ceduna.

Behavioural initiatives:

In 1995 the Government initiated a major project in rural regions to target drink driving and speeding by integrating public education, mass media and enforcement components. These projects are being strategically implemented in the South East, Riverland and Upper Spencer Gulf regions.

A tender has been let to Richard Trembath Research, and base line surveys of rural restraint use are now being undertaken. The results of this survey, supplemented by behavioural market research will lead to the development of an integrated enforcement and education strategy targeting rural restraint use. This strategy will be launched by the middle of 1998.

Meanwhile, Transport SA is continuing to expand the *'Safe Routes to School'* and '*Bike-Ed'* programs and these will be offered in rural areas.

Enforcement initiatives:

In December 1996 the Government provided an additional $1.37 million for enforcement of drink driving and speeding in metropolitan and rural areas. This funding has resulted in a doubling of RBT tests in rural areas. Funding for this increased enforcement is committed to the year 2000.

Further funds has been provided for the purchase of new high technology equipment to target speeding, particularly laser guns—with approximately 70 deployed in rural areas. Hours of use have also been increased to at least one hour per shift per day. Speed cameras are also now deployed in rural areas.

The increase of funds has also enabled rural police resources to be supplemented by both metropolitan based traffic personnel and the State Highway Task Force, at the rate of an extra 175 hours per month.

3. All of the issues noted by the Honourable Member related to driver training will be referred, as already outlined in the Government's Transport Policy October 1997, to the proposed Parliamentary Transport Sale Committee.

All the other rural road safety issues are already being addressed by the Government, as outlined above.

Strategic directions:

The Government is currently considering recommendations made to me in a rural road safety strategy prepared by the South Australian Road Safety Consultative Council. It is based on strategic imperatives and actions identified in both the National Road Safety Strategy and *National Road Safety Action Plan 1996* and in *Road Safety SA*, the South Australian road safety strategy which was launched in December 1995. The proposed rural road safety strategy also incorporates regional South Australian priorities identified by the Road Safety Consultative Council.

ASER

The Hon. L.H. DAVIS: I seek leave to make a brief statement before asking the Leader of the Government in the Council and Treasurer a question about ASER.

Leave granted.

The Hon. L.H. DAVIS: I have had the opportunity of noting in the media over the past 24 hours and again in the ministerial statement that was made available in this House today that the Government has decided to withdraw the ASER assets from the sale process. The Minister noted in his statement that in August last year the Government had announced that the ASER complex, which embraces the Adelaide Casino, the Hyatt Regency and the Riverside building, were to be offered for sale. At the time members will recall that there was a restructuring of ASER through the ASER (Restructure) Bill and the Casino Bill. That restructuring was a necessary part of preparing these three assets for sale, given the complexity of the previous structure, which was prepared under the Labor Government.

It is worth noting that the then Premier, John Bannon, announced the ASER project in Tokyo in October 1983. He announced that it was a Government development and that it would cost $160 million (ultimately $180 million). The cost blew out to a lazy $343.7 million—almost doubling in cost. During that time he had one very energetic Press Secretary called Mike Rann, who used to pump out relentless releases describing this project—

The Hon. A.J. Redford: Did he have a nickname?

The Hon. L.H. DAVIS: He did: remind me—he had so many. Which one are you referring to?

The PRESIDENT: Order! Interjections are out of order.

The Hon. L.H. DAVIS: The Hon. Angus Redford reminded me that even then, before the Hon. Mike Rann was a member of Parliament, he was known with not always great affection amongst his Labor colleagues as the fabricator.

An honourable member: Is that when he was working for Terry Plane?

The Hon. L.H. DAVIS: That is a very good point. I will take that suggestion on notice.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order, the Hon. Mr Redford!

The Hon. L.H. DAVIS: The Casino was opened in December 1985 on budget, and at the time there was a suggestion that within five years the public would be offered a chance to invest in it. That, of course, never occurred. Then it was downhill from there. The Adelaide Convention Centre was opened seven months behind schedule, and Premier Bannon admitted that the cost of the car park, the Convention Centre and the public areas had blown out from $46 million to $77 million. It also became obvious that the Hyatt was running dramatically behind schedule and in fact finished up being 18 months behind its targeted finishing date at more than double the cost from $80 million to $160 million.

Then there was the fiasco with the Riverside building, which also finished late and, apparently from the Premier's view, in the wrong colour. Although the Government had been told of the change of colour, apparently the Premier had not been advised of it. So, the ASER project, as it was described was a debacle, and when this Government came to power, as the Treasurer would be aware, having taken over the role from the Hon. Stephen Baker, the ASER investment

and the write down in its value, which was necessary, occasioned a burden on taxpayers and on the South Australian Superannuation Fund Investment Trust (SASFIT), which is now known as the Superannuation Funds Management Corporation. This Government had to address that matter and relieve the superannuation fund of any further exposure. Given all that sordid history of ASER, I was somewhat stunned to read in the *Advertiser* this morning Mr Kevin Foley's glib response to the Treasurer's decision to withdraw the ASER assets from sale.

The Hon. A.J. Redford: He is suffering from publicity deficit syndrome.

The Hon. L.H. DAVIS: Well, the Treasurer made quite clear that the factors influencing the decision to withdraw the assets from sale was the adverse market conditions resulting from the significant depreciation of Asian currencies and the severe weakening in South-East Asian capital and property markets during the sale process which affected the nature and value of the final bids, as well as the negative perception of Australian casinos arising from the recent poor operating performance of a number of high-profile interstate casinos.

Members interjecting:

The Hon. L.H. DAVIS: I know this is a sensitive matter and that it is cutting deep into the hearts of Mr Cameron and Mr Roberts. I can well understand their sensitivity, but it is worth reminding them yet again of the damage that the Labor Government did.

The PRESIDENT: Order! I suggest that the Hon. Mr Davis get close to asking his question.

The Hon. L.H. DAVIS: I am sorry that I allowed myself to be diverted. The Opposition Treasury spokesman, Mr Foley, said:

> It was clear the Casino complex was not attractive to investors. It is a reflection of the poor return they expected to get from the South Australian economy.

That was Mr Foley's response to the announcement by the Hon. Mr Lucas of the withdrawal of the ASER assets from sale. My question to the Treasurer is whether he has a comment to make about what Mr Foley said in view of the extraordinary history and involvement of the Labor Party in the ASER project.

The Hon. R.I. LUCAS: I thank my colleague for his very good question. All members in this Chamber would have to acknowledge that the Hon. Legh Davis has for many years followed with great interest the development of the ASER complex, and there is no member in this Chamber with a greater reservoir of knowledge of the sordid history of the ASER project. Indeed, the Hon. Legh Davis, I and other members of this Chamber spent many months working on a select committee of this Chamber trying to get to the bottom of the proposition.

The Hon. T.G. Roberts: Set up by the previous Government.

The Hon. R.I. LUCAS: I do not think willingly by the previous Government. I think you were dragged kicking and screaming to that select committee. I didn't say anything about 'willingly'. Without recounting the detail of what the Hon. Mr Davis has very aptly put on the public record again, I must say that there is no doubt that one of the key advisers of that Government's failed economic and financial strategies was one Kevin Foley, who found himself as the senior adviser to Premier Lynn Arnold at one stage and Minister for Industry and a variety of other portfolios at another stage. He was one of the key movers and shakers of the Labor Party.

The Hon. A.J. Redford: A former rising star of the Opposition.

The Hon. R.I. LUCAS: Yes, and, as the Hon. Angus Redford said, he is suffering a little from lack of access to publicity since the election campaign. The Hon. Legh Davis referred to one aspect of what Kevin Foley referred to. Kevin Foley is a very loyal lad to his Labor colleagues because when he was conducting—

The Hon. A.J. Redford: Only to their faces.

The Hon. R.I. LUCAS: Exactly. When he was involved in an interview on ABC radio yesterday morning with Richard Margetson, he was attacked or criticised by the interviewer, who said, 'You're part of the Labor Party.' His immediate response—as a very loyal lad—was, 'I was only elected in 1993. It was the other members before me. I wasn't here—you would have to ask my Labor colleagues about that.'

The Hon. L.H. Davis: He said, 'I only gave them advice.'

The Hon. R.I. LUCAS: Exactly.

An honourable member interjecting:

The Hon. R.I. LUCAS: No, he didn't mention that he was a senior adviser. His first response was to ditch his colleagues and say, 'I was only elected in 1993; you will have to go and speak to my Labor colleagues about that.' It is not surprising that with that sort of loyalty to his colleagues he has been looked upon with some disfavour by some of them.

As the ministerial statement today indicates, the simple facts are that it was not a judgment about the relative strength of the South Australian economy that caused significant problems in this particular sale process. If I can put one figure on the record, the brutal reality is that for some of the bidders, between the first conditional bid late last year and when the final bids came in in January this year, the cost of the bid in their own currency had doubled. In effect, they were able to bid only half the amount of money that they indicated during the conditional part of the process in the latter part of last year. As the Hon. Legh Davis and the Hon. Terry Cameron, who has some interest in share and currency markets, would know, the very significant—

The Hon. T.G. Cameron: What does this mean for the Alice Springs railway—

The Hon. R.I. LUCAS: Nothing to do with it, Mr President—

The Hon. T.G. Cameron: Pie in the sky.

The Hon. R.I. LUCAS: —because a number of things—

The Hon. L.H. Davis: But the Labor Party said it had something to do with it.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: It is interesting that the Labor Party's official response, according to the Hon. Terry Cameron, is that the Alice Springs to Darwin railway is pie in the sky. We ought to put that on the record. The Hon. Terry Cameron—and this is obviously the view of his colleagues including the Hon. Carolyn Pickles—

The Hon. Carolyn Pickles: No, that's not my view.

The Hon. R.I. LUCAS: It is not the Hon. Carolyn Pickles's view. Okay, the Hon. Carolyn Pickles disagrees with the Hon. Terry Cameron regarding the Alice Springs to Darwin railway. I am not sure what is the Labor Party view. Terry Cameron says that it is pie in the sky; the Hon. Carolyn Pickles says that it is not.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Who has got the numbers?

The Hon. M.J. Elliott: Come on, this is an important question.

The Hon. R.I. LUCAS: This is only my first question. As I said, the reality is—and this is the starkest statistic of the lot which can be put on the record—that the cost of the funds for some bidders has virtually doubled. So, the Government absolutely rejects the nonsense that Kevin Foley has been putting about by way of public comment. The reasons for the withdrawal from sale of the ASER assets have been clearly enunciated in the ministerial statement.

WEST BEACH BOAT HARBOR

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about the West Beach Boat Harbor.

Leave granted.

The Hon. M.J. ELLIOTT: I have been given copies of documents that were released by the State Government in late January this year under the freedom of information laws about the West Beach boat launching facility. These documents show that the Government ignored expert advice in supporting the West Beach facility. They were not made available to the public or the Parliament at the time the Parliament debated this issue in December last year.

The Coast Protection Board warned in a report to the Development Assessment Commission dated 8 September last year that:

> The proposal to construct boating facilities at West Beach conflicts with beach processes at the site by interrupting the natural longshore movement of sand. As a consequence, artificial bypassing of sand will be required in perpetuity. This has been identified in the sand management report which forms part of the development application. It is understood that the Government has made a commitment to fund this work and has identified that there are opportunities for cost recovery. The substantial cumulative costs and ongoing nature of this work distinguishes this aspect of the proposal as significant and it must be accepted that the State is bearing the risk of the future consequences given that precise quantification is difficult.

It goes on to say:

> Indeed, when constructing intrusions in a natural environment an extreme circumstance that should be acknowledged is the possible future removal of the facility in the event of failure to meet designed use in an economically feasible manner.

The Coast Protection Board also states that the amount of sand which must be moved and the cost of moving it may be considerable higher than the proponent's estimates and that concerns about the predicted cost and the amount of sand replenishment have not been allayed by the consultant. In response, the Development Assessment Commission relayed these concerns to the Minister. In that letter the commission notes that the Coast Protection Board's concerns about the cost and volumes of sand management have not been allayed by information provided by the consultant. The DAC says that the submission infers that ongoing costs to State Government may be considerably higher than have been indicated by the proponent. My questions are:

1. In the light of the submission of the Coast Protection Management Board and the DAC, has there been a reassessment of the quantities of sand that may need to be moved on an annual basis?

2. Has there been a reassessment of the variability of the amount of sand required and the potential cost; and, if so, on what figures is the Government now operating?

3. If dismantling of the boat harbor becomes necessary—whilst it has been acknowledged that dismantling of the boat harbor would be an extreme circumstance, it has been acknowledged as a possibility—what would be the cost of such dismantling?

An honourable member interjecting:

The Hon. M.J. ELLIOTT: You said that the Coast Protection Board was supporting it, and quite clearly it was not.

4. Given that these documents were not made available to the public or the Parliament at the time of the parliamentary debate on this issue in December last year, how can the Minister justify withholding such information?

5. Given the revelation that that information has been withheld, will the Minister release publicly all documents relating to the West Beach development?

The Hon. DIANA LAIDLAW: I suspect that this is an extraordinarily and deliberately confusing question. The honourable member is muddling up a whole lot of Ministers in terms of proponents, planning authorities and the like. The honourable member is aware that, independently of the Government and me, the Development Assessment Commission gave approval in terms of the planning process, and 22 conditions were established. Those 22 conditions were conveyed to the proponent. The proponent has since indicated that it would meet those conditions—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Yes—and has put forward an amended application that is being considered now. The suggestion that the advice was ignored is absolutely outrageous and incorrect, because the Development Assessment Commission and the Government have been accountable in terms of this process. We have debated the matter thoroughly in this Parliament. When this matter was before the Parliament, general agreement was reached that sand management issues would be involved, and the Government undertook—and it will maintain that undertaking—that those costs would be met. Of course, there will be cost recovery initiatives in relation to this project, and I have no doubt that those initiatives will help in terms of sand management costs. That is a condition upon which this Parliament agreed that the project would proceed, and I think that is as it should be with respect to this matter. I do not think there are conflicts in relation to this matter. I have not withheld any information. DAC is the planning authority: that is not my role.

VICTIMS OF CRIME

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about victims.

Leave granted.

The Hon. A.J. REDFORD: With many aspects of the justice system being overhauled at present, and reforms constantly being considered to make various improvements to create an environment which is more cost effective and efficient in reducing delays, my question to the Attorney is: what reforms, if any, are planned during the current term of Government which would better assist victims?

The Hon. K.T. GRIFFIN: Quite a lot has been done to support victims. I must say that my predecessor, the Hon. Chris Sumner (to give him credit) was also very supportive of the rights of victims and, in fact, introduced the victim impact statement for consideration by the court of the impact of a criminal offence on victims and also put down in the

Parliament a declaration of victims' rights. One cannot deny that he played a very important part, in a supportive and sympathetic manner, in dealing with issues affecting victims.

I would like to think that we are doing as much, if not more, in relation to support for victims of crime. But, as I indicated, it was during his time that the victim impact statement was introduced. There have been some questions about the extent to which victims or relatives of victims ought personally to be able to get up in court to make their statement to the court at the point of sentencing, so that is a live issue. There is an issue about whether the declaration of victims' rights should be enshrined in legislation, remembering that it formed part of a ministerial statement by my predecessor and led to issues that this year we will consider seriously.

Already, a review is under way involving my legal officers and a unit in my department called the Justice Strategy Unit, because we want to see whether, as a result of the experiences of the past 10 years, improvements need to be made. In addition, there is to be a review of the Criminal Injuries Compensation Act. The Opposition has already indicated support for legislation which would close off a loophole that was identified last year in about April when several offenders (I think three) were granted criminal injuries compensation of $2 800 for psychological injuries they say they suffered while committing a crime; their friend was fatally shot while they tried to steal marijuana. Naturally, that created a concern within the community and I indicated that we would be looking to legislate to deal with that issue because it went on appeal and we lost the appeal. I was pleased to have the support of the Opposition in indicating that it would support such legislation.

It is important in that context also to look at the way in which the Criminal Injuries Compensation Act is presently operating. A lot of things have been happening around the world in the area of support for victims, and I would want to see that in South Australia we were providing a top-flight support system for victims of crime in particular. Incidentally, we provide about $350 000 in the current financial year to support the Victim Support Service which itself runs a range of services to those who might be victims or relatives of victims.

Some concern has been raised about the extent to which we can recover the criminal injuries compensation levy and currently a Bill is circulating in draft form to endeavour to ensure that whatever else happens there is an obligation upon an offender to pay the levy which goes into the criminal injuries compensation fund. That arose as a result of a case where an inmate successfully argued that the levy could not be taken from a prisoner's pay because another warrant had been issued against him and that had legally cancelled the liability to pay up.

In the area of child abuse/sexual abuse victims we have taken a number of initiatives in the legislative area, but also in providing screens and closed circuit television for vulnerable witnesses among whom child abuse/sexual abuse victims are numbered. In the new Adelaide Magistrates Court, closed circuit television facilities are available in two courts for that purpose.

We will, in fact, be looking at the extent to which and the ways in which a child's evidence can be given. I indicated last year that one of the officers in the Director of Public Prosecutions office had been to the United Kingdom to look at the way in which a child witness's evidence might be given, whether it was appropriate to put in evidence a video recording of the child's statement with all inadmissible material knocked out and then allow merely cross-examination. A variety of other issues arise in that situation but that is one of the issues that is already being addressed.

A number of things are on the agenda. The Wood Royal Commission report has focused particularly upon the issue of children as victims and both their support and the way in which issues affecting them should be dealt with in the criminal justice system. So, we will be looking at those with a view to determining which are and which are not applicable in South Australia. Members will remember that we have presently in the southern areas of the State an interagency child abuse assessment panel program which is designed to facilitate dealing with young people who may be or are alleged to be the victims of child sexual abuse.

That is a few of the things happening in the area of victims. It is an important area and, generally speaking, I am pleased to say that when we do bring legislation to the Parliament it does seem to have the support of all Parties where it focuses upon those sorts of issues. I hope we will be able to continue that through this year.

RACIAL VILIFICATION ACT

In reply to **Hon. SANDRA KANCK** (2 December 1997).

The Hon. K.T. GRIFFIN: In the 1996-97 reporting year, there were 24 complaints of racial hatred lodged with the Human Rights and Equal Opportunity Commission where the complainant had a South Australian postcode.

In the same year, eight complaints were finalised, five were conciliated and three were declined.

NATIVE TITLE CLAIMS

In reply to **Hon. CAROLINE SCHAEFER** (4 December 1997).

The Hon. K.T. GRIFFIN: There are three native title claims which overlap the Port Augusta, Port Pirie and Gladstone areas:

- Barngarla—native title determination application SC96/4. This claim extends over all of Eyre Peninsula, Gawler Ranges and Flinders Ranges.
- Kuyani (No. 2)—native title determination application SC95/4. This claim includes Whyalla in the south, Anna Creek and Mt Hopeless in the north and nearly reaches the NSW border in the east.
- Nukunu—native title determination application SC96/5. This claim extends from north of Pt Broughton to Lake Torrens (including Pt Augusta in the west and Gladstone and Jamestown to the east).

Extent of Claims:

Of the three native title applications in respect of Pt Augusta, Pt Pirie and Gladstone, two of them, Kuyani and Nukunu, specifically exclude tenures which are inconsistent with the existence of native title.

The following is taken from the actual applications lodged with the National Native Title Tribunal:

The Kuyani claim does not include—

- any land within those external boundaries which is the subject of any Act or Acts which have extinguished in respect of that land all the native title rights and interests of the applicant which are incapable of co-existing to the extent of any inconsistency or incapable of reviving;
- freehold land and pastoral leases issued without reservation (note there are no such pastoral leases in South Australia in any event).

The Nukunu claim does not include—

- any valid grant of freehold title which has extinguished native title. Conversely the claim does extend over any validly granted freehold land in the relevant area if native title was not extinguished by the grant of freehold title;
- the native title claim, with respect to any validly granted pastoral leases, is confined to those native title rights and interests which are consistent with Aboriginal use and/or benefit contained in the leases;
- the native title claim, with respect to any other validly granted use of the land, is confined to rights and interests which are consistent with existing proprietary interests in the land.

The Nukunu claim is also subject to agreement with the Ngadjuri people in relation to the nature of native title interests and the identify of native title holders of land in the vicinity of the eastern boundary of the land the subject of the application.

In summary the Kuyani (No. 2) and the Nukunu claims exclude tenures which are inconsistent with the existence of native title. This is tantamount to making a claim over all of the land, leaving it to the court to subsequently determine where native title still exists.

While the Barngala claim does not specifically exclude tenures which are inconsistent with the existence of native title, the same issues of what amounts to extinguishing tenures arise and are yet to be determined by the court.

The Barngala claim does not include—

· current and former freehold land;

The Barngala claim also specifically states—

· the native title rights and interests shall also be limited with respect to the following if such limitations are found to be required at law:
  (a) current and former pastoral leases (with the exception of Emeroo Station) (currently held by the Commonwealth and claimed by the claimants to have been acquired by the Commonwealth on behalf of the claimants) in respect of which the native title rights and interests are consistent with the reservations contained in the leases;
  (b) former and current Reserves and Special Purposes Reserves where relevant, in respect of which the claimed native title rights and interests are limited to those rights and interests which have not been diminished through prior inconsistent dealings with the land.

Nature of Tenures:

These three particular claims are examples of the effect of native title claims over a whole range of tenures because the claims are over settled areas as well as more remote country. The following types of tenures are the subject of each of the claims:

· Pastoral leases;
· Other leases which may include (but are not exclusive to):
  (a) Perpetual leases;
  (b) Miscellaneous leases;
  (c) War Service leases;
  (d) Shack sites (which can vary from freehold to miscellaneous leases to occupational or annual licences);
· Aboriginal land (e.g., the former Nepabunna mission in the Kuyani claim);
· Dedicated reserves and lands (including national parks);
· Crown land.

In summary, the three claims extend over all forms of tenure except for privately owned freehold land.

Progress of the Claims:

All three claims have been registered and accepted by the National Native Title Tribunal. There have been no determinations of native title in relation to any of the claims at this stage.

None of the three claims has been referred to the Federal Court as yet. Mediation is still progressing with regard to all three claims. The Kuyani and Barngala claims may be referred to the Federal Court in the near future but communication between all of the parties concerned is continuing during the mediation process.

In reference to the honourable member's remarks regarding 'neutral ground', the nature of native title is not the same as freehold title. It is a common law right which is determined on a case by case basis, according to Aboriginal laws, customs and practices which apply to the particular land in question. In some cases there may be an ascending scale of rights which may be shared by individuals and communities and which may overlap in some areas. In other words, the fact (assuming it was established) that there was neutral ground and fighting was not allowed under Aboriginal law would not necessarily affect native title rights over that particular area of land.

COURTS ADMINISTRATION AUTHORITY

In reply to **Hon. R.D. LAWSON** (3 December 1997).

The Hon. K.T. GRIFFIN:

Funding Proposals 1996-97

The complete list of the initiatives sought by the Courts Administration Authority for the 1996-97 financial year was:

· additional judicial appointment—District Court
· capital works—Supreme Court upgrade
· courts security—Christies Beach and Holden Hill
· increase in jurors fees
· security upgrade for the Sir Samuel Way Building
· youth justice co-ordinator and clerical support
· mediation officer
· Aboriginal liaison officer
· co-ordinator—enforcement

The government made some decisions based on what it saw as appropriate priorities taking into account the $30 million Adelaide Magistrates Court development and the fact the Youth Court is to be substantially upgraded in 1998-99.

Re-engineering—Sale of Technology

There are no receipts to date in relation to the arrangements with the Victorian Department of Justice. On 5 December 1997, the State Courts Administration Council gave its consent for DMr Consulting to supply the Courts Case Management Software to the Victorian Courts. Any revenue from the licensing of the software will not begin to flow to the Courts Administration Authority for several years. Any revenue will be based on the number of registered users and will increase over time.

ETSA TRANSMISSION

In reply to **Hon. SANDRA KANCK** (9 December 1997).

The Hon. K.T. GRIFFIN:

1. Following the significant increase in demand which occurred during the very hot spell in February 1997, a number of strategies were put in place to ensure the future reliability of electricity supply to ETSA customers in South Australia. They include:

· the renovation by Optima Energy of some older generating plant at Playford Power Station to obtain significant additional output;
· the installation by ETSA Corporation of additional gas turbine generating plant at Snuggery and Port Lincoln; and
· the implementation of plans to increase the distribution transformer capacity in the Adelaide metropolitan area.

In addition, ETSA and the Victorian Generators have carried out an independent review of the ability of generating plant in Victoria to meet peak loads on extremely hot days and to supplement South Australian demand when generating plant within South Australia becomes unavailable. As a consequence, additional reserve generating plant in Victoria has been made available for service for the summer period which commenced on 1 December 1997.

Also, from March 1998, it is expected that additional generation capability will be available from the new co-generation plant currently being constructed by a private consortium at Osborne. ETSA has spent approximately $15M on a new substation at the Osborne site to complement this significant increase in generation capacity.

Plans to serve future additional demand in South Australia have included the consideration by the SA Government of the construction of a direct interconnection with NSW. Approval for future development such as this must also be considered and endorsed by the national groups overseeing the introduction and operation of the Australian National Competitive Electricity Market.

However, the SA Government is considering other proposals such as upgrading by Optima Energy of the older plant at the Torrens Island Power Station and upgrading by ETSA Corporation of the existing interconnection with Victoria. Further, the opening of the electricity industry to competitors promoted by the National Competitive Electricity Market also allows additional generators, including wind power generators, to arrange connection to the SA transmission network to support future South Australian demand.

ETSA also has customers who agree to reduce their electricity demand to allow the impacts of sudden loss of supply to be absorbed without disruption to the remaining SA customers.

2. The SA Government is keen to see the completion of the construction of the interconnection between NSW and SA by the summer of the year 2000. However, the introduction of the Australian National Competitive Electricity Market has complicated the process of approving and building such additional transmission infrastructure and National processes involving widespread interstate consultation must take place before the management of the National Market will accept the inclusion of this infrastructure.

Even with the processes associated with environmental assessment and dealing with any Aboriginal claims over the area through which the NSW/SA interconnection must pass, the SA Government expects that there is sufficient time for the construction of this link before the summer of the year 2000.

3. Unplanned interruptions to the double circuit interconnector causing customer load shedding has occurred on an average of less than once per year (five times since 1990), due principally to

lightning. It is ETSA's current practice to conduct visual inspections of the line prior to placing the circuits back in service.

On 31 October 1997, it was not possible to conduct inspections using a helicopter or light aircraft as the severe storm conditions made it unsafe to do so. ETSA would not consider risking the lives of personnel in such weather. Consequently, inspections were conducted using road vehicles which caused a greater than normal delay in restoring power.

During the storm, disruptions to customers as a result of the loss of the interconnection with Victoria were kept to a minimum. Even though the interconnection was severed for approximately three hours, load shedding per suburb was kept to a maximum of 45 minutes. While the interconnector was unavailable, all available standby generating plant was brought into operation and, similar to the Victorian load shedding arrangements with Alcoa, large industrial customers who have 'interruptible' contractual arrangements with ETSA had supply interrupted to absorb the loss of supply capacity.

4. ETSA has had a comprehensive strategy for load shedding for many years to cater for significant failures of supply. Prior to the commissioning of the interconnection, load shedding occurred approximately six to twelve times per year due mainly to failures affecting major generating plant. Since the interconnection was completed, load shedding has been much less frequent because of the reserves available from the Victorian and NSW electrical power systems. The loss of both circuits of the interconnector is not a common occurrence.

ETSA's directive and guidelines for load shedding are reviewed periodically with the last review conducted on 1 July 1997. Previous reviews were conducted in February 1994 and July 1995. The directive and guidelines include supply restriction authorities and directions for load shedding activities. A copy of the latest directive is provided.

5. A load shedding plan for South Australia is summarised in my response to question 4.

6. Where ETSA has advance notice of potential supply difficulties, customers are advised of the potential for load shedding via the media. However, electricity is unique, in that stocks cannot be held in reserve and the impact of a large failure is usually immediate.

YATALA LABOUR PRISON

In reply to **Hon. T.G. CAMERON** (4 December 1997).

The Hon. K.T. GRIFFIN: Yatala Labour Prison has a salary budget for 1997-98 of $9.09 million. Salary expenses to the end of October 1997 showed an unfavourable variance for the year to date of $402 793. Of this amount, almost $200 000 relates to salary payments to persons on workers compensation.

The balance of $203 000 is attributable to higher than budgeted salary costs over the first few months of this financial year. This is considered manageable at the present time and the Department is confident that this situation can be addressed by the end of the financial year.

RETIREMENT VILLAGES

In reply to **Hon. IAN GILFILLAN** (4 December 1997).

The Hon. K.T. GRIFFIN: I have examined the range of matters raised on 4 December last year by the Hon. Mr Gilfillan in his question without notice about retirement villages and I am now in a position to give the comprehensive reply I promised at the time.

The honourable member raised a number of issues in asking whether the Government would 'consider introducing compulsory licensing or registration of retirement villages, including the imposition of mandatory minimum standards of design, construction and financial reporting to residents

As I indicated in my initial response, the Government has no intention of introducing a heavy-handed licensing or registration system in an attempt to address the problems mentioned by the honourable member. Such an approach is unnecessary and may be counter productive. Some of the problems mentioned by the honourable member appear to be overstated (although this is not to deny the sincerity and *bona fides* of his informants) but they are all being addressed constructively by the Government.

Looking at each in turn:

The general impact of low standards in retirement villages

The Retirement Villages Act 1987 does not specifically address safety issues in retirement villages but there is, of course, a range of State and Commonwealth legislation which requires minimum standards to be observed in all of the areas mentioned by the honourable member. This legislation is discussed in more detail below but it should be noted that many of these issues are covered by the State's Supported Residential Facilities Act 1992.

The Supported Residential Facilities Act covers a very different type of accommodation and residents who generally require a far greater degree of care and protection than those who choose to live in retirement villages.

Officers of the SA Health Commission, which administers the Supported Residential Facilities Act, met recently with staff from the Office of Consumer and Business Affairs to discuss those hybrid retirement villages which, because of the composition of their resident populations, are required to adhere to both the Supported Residential Facilities Act and the *Retirement Villages Act*.

It was agreed that it would be beneficial to encourage cooperation between agencies to learn more about each other's roles and responsibilities and to ensure that accurate advice is given to residents. Regular meetings will now be held to promote an increased understanding between the two agencies.

At the last meeting of the Retirement Villages Advisory Committee members were encouraged to seek advice from the Health Commission on issues associated with facilities which are not covered by the *Retirement Villages Act*.

As I mentioned in my initial response, many of the broader issues raised by the honourable member have already been raised and discussed at the Retirement Villages Advisory Committee.

The Committee provides me with advice on policy issues relating to the Retirement Villages Act. It is made up of representatives from government, industry and residents' groups and meets bi-annually. Its most recent meeting was held on 4 November 1997.

Accounting for regular maintenance charges.

Currently, Section 10 of the Retirement Villages Act requires that accounts be presented to the residents of a village at an annual meeting. If a resident believes that the accounts do not reflect an accurate maintenance fee, he or she can apply to the Residential Tenancies Tribunal for an examination of the accuracy and amount of the fee.

In addition to this formal mechanism, most retirement villages have a committee that is briefed by its administrators about maintenance charges. Those committees act as an intermediary for residents with concerns about fees and charges.

More generally, an Accounting Standards Sub Committee of the main Retirement Villages Advisory Committee is currently preparing recommendations about financial reporting to village residents. The sub-committee comprises government and industry representatives and has drawn upon the expertise of professionals and accounting academics in compiling its recommendations, which are eagerly anticipated.

The sub-committee has been asked to make recommendations about:

- improving the level of information disclosure to residents;
- the appropriate frequency for presentation of accounts;
- alternative compliance strategies to promote awareness and self regulation within the industry, and
- the effectiveness of existing audit requirements.

Exit of 'relicensing' fees

Claims that exorbitant charges are being levied by some owners to re-licence units to new residents are currently being investigated by the Office of Consumer and Business Affairs. A large South Australian retirement village owner requires its incoming residents to sign a contract that the Office considers may be misleading in relation to the relicensing process and associated fees.

The Administrators Code of Conduct under the Retirement Villages Regulations provides that administrators must bear the cost of remarketing the right to occupy a unit for the first 90 days, but that, if the right is not sold within that time, the parties may reach agreement on further advertising. Residents may also undertake their own advertising, at their own expense.

The Commissioner for Consumer Affairs advises that, although the Code of Conduct is not explicit on the point, in his opinion, if no agreement is reached, the administrators remain responsible for the cost of remarketing.

This issue was raised at the November 1997 meeting of the Retirement Villages Advisory Committee meeting when members were advised that a thorough investigation was continuing and that, in the meantime, all residents should be strongly encouraged to read their contracts carefully before signing and to seek legal advice in relation to any issue of which they are not sure.

Informal redress mechanisms

It is obviously preferable for disputes between retirement village residents and administering authorities to be settled within a village in an amicable, open and fair manner but if this is not possible, the Office of Consumer and Business Affairs has long provided an inexpensive, informal means by which disputes can be resolved.

The Commissioner's officers are fully trained in the mediation process and their attempts to resolve disputes are most often successful.

In addition to this universal, taxpayer-funded initiative, an important self-regulatory redress mechanism has been established by a section of the retirement village industry.

Adherents to the Retirement Village Association Code of Conduct are required to establish a disputes resolution scheme to attempt to resolve disputes that arise within the village either between residents or between management and residents.

The committee overseeing each village scheme must comprise three persons ie. a person appointed by the residents, a person representing management and a person agreed to by both the resident and management representative or, failing agreement, appointed by the Chairman for the time being of the Association.

If this mechanism is unsuccessful in resolving a dispute, the Code provides that it should be referred to the Association's central disputes committee. In practice, these schemes have been successful in resolving a number of disputes.

If either of these processes is unsuccessful, Section 14 of the Retirement Villages Act provides for either party to apply to the Residential Tenancies Tribunal for assistance in finally resolving their dispute.

The Tribunal is relatively inexpensive to access (the current $100 application fee not covering costs) and it is made up of members with appropriate expertise who specialise in the area.

Proceedings are non-adversarial, with the Tribunal member able to hear directly from the parties about their dispute and able to explain the law directly to them.

The Tribunal's new premises have been specifically designed for the hearing of retirement village matters, with extra seating capacity to accommodate all interested residents, a lower podium to improve sight lines and improved acoustics to assist people to follow the progress of proceedings.

Ministerial exemptions

The Retirement Villages Act 1987 was assented to on 5 November 1987. It was originally administered by the Corporate Affairs Commission, which developed a clear general policy in relation to exemptions which has continued to apply to this day.

Under that policy, exemptions from particular provisions of the Act will not normally be supported unless the policy objective of the provision is attained in some other legally enforceable manner, for example, contractually or in the terms of a trust. An exemption in these cases will normally be granted subject to a condition that the legal position does not essentially change.

Section 4 of the Act gives the Minister the discretion to confer exemptions from the whole Act or from any part of the Act but there have been no exemptions from the whole Act for almost a decade. Most of the exemptions under Section 4 were granted in 1987 and 1988 when the Act came into operation and many were valid for only one year.

Exemptions are only granted after careful consideration of all the issues, particularly the possible effect of the proposed exemptions on residents. Although there is no requirement in the Act to keep a register of exemptions, and despite the fact that some exemptions involve very sensitive and essentially private matters, they are published in the Government *Gazette* when they are made. They have also been made available to interested members of the Retirement Villages Advisory Committee.

More importantly, whenever necessary, exemptions are given subject to conditions requiring residents, prospective residents or the public to be fully and appropriately informed of the effect of the exemption (see, for example the condition attached to the unique exemption mentioned below).

Many of the retirement villages which originally sought (and currently hold) exemptions are run by charitable or religious organisations or other community 'non profit' organisations, who are attempting to provide accommodation to elderly persons in need of care or accommodation at a lower cost than that provided by profit-making businesses.

These non-profit organisations originally sought exemption from some of the more onerous administrative requirements of the Act in order to minimise costs—rather than to maximise profits. For example: a village, which is a cluster of units in several suburbs owned by one organisation, sought to maintain one set of consolidated accounts rather than having to produce separate accounts for each cluster of units. In this case, it seems reasonable to continue to exempt the organisation from strict compliance with the financial reporting requirements of the Act.

There has only been one Ministerial exemption granted during the term of the current Government. It was sought to allow one building on land (which could not be isolated from other school buildings) to be used as a retirement home for aged nuns and other elderly women without the title to the whole parcel of land being endorsed, as normally required by the Act, with a statement that the property was to be used as a retirement village.

This exemption was granted subject to the condition that any proposed mortgagee of the land should be advised of the women's interests granted by the Act (which were preserved).

Pro forma contracts

As I pointed out in my initial response, proper legal documentation is essential to protect the rights and interests of village residents. Simplified pro-forma documents may be easy to understand but they may not ultimately serve the particular needs and interests of residents.

They may create a great deal of difficulty and, ultimately, they are no substitute for proper, independent advice about the wisdom of entering into a particular agreement — which prospective residents are urged to obtain during the statutory cooling-off period.

The current practice is for retirement villages to prepare their own loan agreement documentation, but they must conform with the requirements of the *Retirement Villages Act*.

If a loan agreement or arrangement is inconsistent with a provision of the Act or purports to exclude, modify or restrict the Act, it is void and of no effect.

Codes of conduct for retirement village operators

The honourable member's comments about codes of conduct appear to relate to the Retirement Village Association Code of Conduct. It is true that this code is only binding on villages that are members of the Association (although it applies to existing as well as to new retirement village members).

The Association is mainly made up of larger village owners and the majority of retirement villages are owned and operated by smaller companies who are not members of the RVA and therefore are not required to adhere to the Code.

However, the Administrators Code of Conduct under the *Retirement Villages Regulations* is not a voluntary code. It must be adhered to by the administering authorities of all retirement villages covered by the Act.

Design and construction standards

As I mentioned in my initial response to the honourable member, the design and construction of villages is not covered by legislation administered by the Commissioner for Consumer Affairs. It is the responsibility of local councils to approve building applications by intending developers and these applications must comply with the Building Code.

The Development Act 1993 provides a framework for the approval of building work in South Australia. The Act refers to the Building Code of Australia which outlines the detailed requirements and standards for the design and construction of buildings.

However, the focus of the Code is on the use to which buildings are put rather than the type of people who use the buildings.

Under the Building Code, individual units in a retirement village are classified as Class 1a buildings (one or more detached buildings) and when designing for this class there are no special requirements to accommodate the needs of aged or disabled residents.

The Australian Building Codes Board, which administers the Code, has been asked to review the classification of buildings used for aged care, as the current system does not sit comfortably with revised operational and funding procedures for aged care facilities. However, it is anticipated that such a review would focus on Class 3 (hostels) and Class 9a (nursing home) buildings, which are, of course, very different from the general style of accommodation and the arrangements expected in most independent-living retirement villages.

Prospective residents of individual units in a retirement village are urged to consider their future requirements carefully before entering into a contract to purchase their unit. In most cases alterations can be made to suit residents' needs but these alterations would normally be carried out at the residents' own expense.

This is consistent with Commonwealth legislation dealing with disability discrimination. The Commonwealth Disability Discrimi-

nation Act draws a distinction between access to public buildings (and areas) and the requirements of disabled people living in private accommodation.

The Office of Consumer and Business Affairs recently investigated a complaint about the inability of an ambulance to gain access to a retirement village. The village in question was owned and operated by a local council authority and, following negotiation and mediation by the Office, the matter was successfully resolved with the installation of wheel chair access.

This action was consistent with the Commonwealth Act's strict requirements in relation to public or multi-user buildings, but different rules necessarily apply to private, self-contained accommodation.

Under the Commonwealth legislation, any costs associated with the alteration of private accommodation to suit the needs of prospective disabled residents (normally tenants) can be charged to those residents and, when they vacate, the cost of reinstating the premises to their original condition must normally be met by the residents themselves.

Ultimately, it is market forces which should dictate that appropriate facilities are fitted to the individual units in retirement villages.

The Government, through the SA Housing Trust, the Office for the Ageing and other agencies is actively working with councils and the building industry to encourage the design and construction of homes to a standard which accommodates the needs of an ageing population.

Councils have also been encouraged to be sensitive to the needs of their ageing residents and many have responded positively, taking the advice of the aged care professionals they employ.

Attendance at residents committee meetings

The particular problem with the owner of several villages not permitting SAVRA representative to attend residents' committee meetings mentioned by the honourable member has now been resolved by the Office of Consumer and Business Affairs.

The owner of the villages has confirmed that a SAVRA representative will be given the opportunity to address meetings of residents at the villages.

Licensing of Retirement Villages

As previously mentioned it is the Government's policy to co-regulate and de-regulate whenever possible rather than to impose costly new forms of regulation.

The Act properly emphasises the provision of information that is comprehensible to both retirement village owners and prospective residents so that both are fully aware of their rights and obligations before they enter into binding agreements.

Officers of the office of Consumer and Business Affairs continue to encourage intending residents of retirement villages to read their contracts carefully and to seek legal advice where necessary.

The Office of Consumer and Business Affairs is also in the final stages of producing an education kit on retirement village living. The kit will be divided into three categories, directed at: residents, intending residents and village administrators. Each section sets out important information about the rights and responsibilities of individual stakeholders. It is anticipated that the kit will be officially launched in February 1998.

ABORIGINES IN CUSTODY

In reply to **Hon. T.G. ROBERTS** (9 December 1997).

The Hon. K.T. GRIFFIN: Every application to allow a prisoner funeral leave is treated most carefully by the Department for Correctional Services. This is particularly so with applications received from Aboriginal prisoners who, because of cultural requirements, are obligated to attend the funerals of close family members.

The dilemma that confronts correctional administrators is to identify those Aboriginal prisoners who should attend a funeral.

It is not unusual for 10 or more Aboriginal prisoners, from different prisons throughout South Australia, to apply to attend a single funeral. The Department is aware that, in addition to the genuine applicants, there will be prisoners among those who make these requests who do so:

- to break the monotony of prison;
- to visit with friends;
- to have the opportunity to obtain drugs; or
- to escape.

Many Aboriginal prisoners have been raised, not by their parents, but by aunts, uncles or close family friends and this extended family makes it impossible for the Department to simply prescribe that prisoners may only attend funerals of immediate family. The Department's decision in this matter is also influenced by the wishes of the Aboriginal community which, in some instances, makes it known to correctional staff that the prisoner is not welcome to attend the funeral.

To overcome these problems, the Department has established the practice of contacting recognised Aboriginal organisations to seek their advice regarding which prisoners should be allowed to attend a funeral. This is carried out in conjunction with advice and direction from the Department's own Aboriginal Liaison Officers.

In this instance, on 24 July 1997, two Aboriginal prisoners applied to attend a funeral at Point Pearce.

Attempts made to contact officers of an appropriate Aboriginal agency to discuss the funeral leave were unsuccessful.

The general manager of the prison was therefore required to make the decision whether or not the two prisoners should attend, based on his knowledge of the prisoners concerned. The factors which he took into consideration included:

- the relationship of the two prisoners with the deceased;
- that one of the prisoners had already attended three funerals during the month of July and the other had attended one;
- that one of the prisoners had a previous record of escape and this would have implications for additional security requirements should this application be approved; and
- the financial and staffing implications of the escorts.

After careful consideration of all of the issues, the escort was not approved.

An earlier application for another prisoner to attend the funeral of an aunt on 8 July 1997 was not approved because he had previously attended the funerals of an aunt on 28 February 1997 and an uncle on 3 July 1997.

As I have stipulated in my earlier response on this matter, I am satisfied that the Department for Correctional Services is complying with the requirements of the recommendations of the Royal Commission into Aboriginal Deaths in Custody.

NATIONAL CRIME AUTHORITY

In reply to **Hon. IAN GILFILLAN** (11 December 1997).

The Hon. K.T. GRIFFIN:

1. The matter has been fully investigated. It was not necessary to interview Mr Work or Mr Schultz because they already had provided detailed statements during the investigation of the bombing.

The statements differ from the account of Ganley. Ganley admits this. The Major Crime Task Force investigators admit this and that they knew it from the start. Senior members of SAPOL knew it from the start. The Director of Public Prosecutions was well aware of it.

There are no conflicts to resolve. This incident was of an extremely traumatic nature to all involved. As a result the accounts of the parties differ. Indeed, it would be more surprising if they did not.

Mr Ganley's account does not gel with that of the others; however, it does this with respect to insignificant and non-evidentiary critical issues post explosion. All the parties involved—witnesses, investigators, senior management, senior prosecutors, and Mr Ganley—agree this is the case.

Everyone agrees the accounts of the traumatic event differ. Each maintains it is how they individually recall the incident from their vastly different perspectives. What is there to resolve?

2. On the information provided I was satisfied that the investigation by the PCA was thorough and adequate when the matter was first brought to my attention in May 1997.

Numerous documents and video vision was obtained, with all major participants being thoroughly interviewed to ascertain their accounts.

3. I am informed that the decision not to interview the witnesses in this matter was not taken lightly. The point is, there are discrepancies in the statements; senior SAPOL personnel, as well as the Director of Public Prosecutions himself, all acknowledge these discrepancies and state that they do not affect the outcome of any possible future prosecution.

Significant time and resources have already been spent, and continue to be spent, on this matter. It is a very sensitive matter, but I now believe the expenditure of these limited resources should end.

INDUSTRIAL DEATHS

In reply to **Hon. T.G. ROBERTS** (2 December 1997).

The Hon. K.T. GRIFFIN: The Minister for Government Enterprises has provided the following response:

1. In his brief explanation the honourable member commented on the progress made with respect to conditions of employment in the training in occupational health and safety programs. He remarked that, in most premises in South Australia, things have come a long way in the past ten to fifteen years. The 1986 Occupational Health, Safety and Welfare Act came into operation in late November 1987. Since then, we have indeed come a long way but we need to remember that occupational health and safety is an area where vigilance and continuous improvement are essential.

The honourable member's question related to special health and safety needs and circumstances where outsourcing and contracted work are concerned. In this context it is also worth addressing such needs and circumstances as they relate to the labour hire industry. It is important to review the legislative provisions and, in this regard, the first point is that section 19 of the Occupational Health, Safety and Welfare Act places a general duty of care on employers.

Section 19 states that:

An employer shall, in respect of each employee employed or engaged by the employer, ensure so far as is reasonably practicable that the employee is, while at work, safe from injury and risks to health . . .

This key section of the Act goes on to specify requirements for a safe working environment, safe systems of work and plant and substances in a safe condition. The section also specifies requirements for provision of information, instruction, training and supervision as are reasonably necessary to ensure that each employee is safe from injury and risks to health. The section applies to employers in general and, of course, to contractors whose employees may work at a variety of workplaces.

Section 4(2) of the Act states that:

For the purposes of this Act, where a person ('the contractor') is engaged to perform work for another person ('the principal') in the course of a trade or business carried on by the principal, the contractor, and any person employed or engaged by the contractor to carry out or to assist in carrying out the work, shall be deemed to be employed by the principal but the principal's duties under this Act in relation to them extend only to matters over which the principal has control or would have control but for some agreement to the contrary between the principal and the contractor.

Section 4(2) reflects the need for principals and contractors to consider carefully their respective roles and responsibilities, to ensure that these are properly addressed in contracts and other documents and to ensure that the necessary safety measures are applied in practice. Section 21 of the Act addresses the responsibilities of employees to take reasonable care to protect their own health and safety at work, and to avoid adversely affecting the health or safety of any other person through any act or omission at work.

Other Act provisions include requirements on occupiers to ensure, so far as is reasonably practicable, that the workplace is maintained in a safe condition and that the means of access to, and egress from, the workplace are safe.

The Act is backed up by hazard-specific Regulations, Codes of Practice and Guidance Materials which enable safe systems of work to be developed. For instance, the Regulations go into the processes of hazard identification and risk assessment and the control of risk. They pay special attention to matters such as electrical hazards, emergency procedures, plant and machinery, and particular hazards such as those associated with construction and demolition work.

In summary, the legislative provisions are well in place to help ensure that safe and healthy workplaces and procedures are maintained, whether the situations involve fixed or contract labour, or the use of labour hire workers.

Earlier on I referred to the importance of vigilance and continuous improvement. Government itself, as an employer, and as a user of contracted and other external service sources, is bound by the provisions of the legislation and account is taken of this in contractual procedures. In terms of administration of the legislation, Government has responsibilities including monitoring and reviewing the legislation. The Regulations under the Occupational Health, Safety and Welfare Act are presently the subject of review, with the intention of improving them and making them more user-friendly and easier to understand and apply.

Government's responsibilities include the provision of measures to educate industry and facilitate compliance with the legislation. During Safety Week in October, 1997, new 'Guidelines for Managing Health and Safety in the Labour Hire Industry' were launched. Prepared by WorkCover, the Guidelines have been widely circulated and provide much practical and helpful information on the health and safety issues associated with contract and labour hire activities. A wide range of other helpful literature is available from WorkCover and the Agency and Workplace Services component of the Department for Administrative and Information Services (DAIS). The OH&S Inspectorate of DAIS is being reorganised to deliver its services via teams, each team dealing with a range of specific industries. This is intended to build banks of expertise and specific knowledge which should facilitate a sharper focus in investigative, enforcement and advisory work by the Inspectorate.

Government's aim is, once again, to ensure that health and safety legislation, and the measures by which it is administered, are the subject of continuous scrutiny and improvement. Prevention of injury is the key objective. In cases where investigations by the Inspectorate reveal lack of due care or other serious breaches, then strong action (including prosecution) is taken.

ROAD SIGNS

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Minister for Transport a question about road signs.

Leave granted.

The Hon. G. WEATHERILL: Some time ago in this place I raised the issue about road signs and people having problems driving along West Terrace trying to find the turn-off for the airport. The Minister has taken this on board, and when driving around recently I have noticed that there has been a marked improvement in road signs in South Australia. I congratulate the Minister for listening to the question and doing something about it.

Before we go too far on the issue of road signs being erected at the present time, another issue should be considered. I was recently in Sydney and I noticed that the road signs are absolutely fantastic for all interstate and overseas visitors who drive cars. When approaching an intersection or junction within the city area, the street sign would indicate, say, 'Liverpool Street'. The sign also had numbers written underneath 'Liverpool Street' which indicated the street numbers of buildings along that section of road to the next intersection. So, it went on along main roads as well.

Today, when driving along Port Road I noticed a sign indicating 'Port Road 7A'. It could also have indicated the street numbers of buildings along that section to the next intersection. Another sign could be placed on the side of a building, if necessary, so that people could follow it. For pedestrians walking in the city to the next main street, it is most helpful to find out which way the numbers run.

The Hon. DIANA LAIDLAW: I thank the honourable member for his recognition of the fact that I did listen and acted on his suggestion. Mr President, you will recall over a period of time that a series of questions was asked by the Hon. Mr Weatherill about road signs. The Department of Transport has worked with the RAA and some local councils, but mainly it was the department working through this issue and defining the numbers in terms of the 'M' for motorway and 'A' for arterial roads. We are calling these trail blazer numbers and they have been noted on main roads in the metropolitan area and they will be noted throughout country areas. We started implementation of numbers at the end of last year in time for the reprinting of street directories and I hope that, when the street directories come out in future, they will have these trail blazing numbers and people will find them easy to follow. I have certainly enjoyed telling people to go on the M2 (the Southern Expressway) and I refer to other initiatives to the airport and other Adelaide sites. I will

speak to the honourable member more about these numbers on intersection signs in Sydney and clarify whether they are local government street signs for which local government is responsible. I refer to the Adelaide City Council and suburban councils. The Adelaide City Council has been more active in having numbers displayed at intersections. Certainly, for drivers they would be hard to see.

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: That is right. They would be difficult to see for drivers but it would make it easier for people walking. I will clarify those issues with the honourable member and see if we can advance the issues through local government and the Department of Transport.

AGED TRANSPORT SERVICES

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for the Ageing a question about transport services for aged persons in rural areas.

Leave granted.

The Hon. J.S.L. DAWKINS: Members may be aware that the Government has provided significant funding through the Home and Community Care program (HACC) for community transport networks in rural areas. These networks are valuable because of the isolation of many ageing country residents and the lack of alternative transport services. Does the Government have any plans to extend the services to other areas?

The Hon. R.D. LAWSON: I thank the honourable member—

Members interjecting:

The PRESIDENT: Order! The Minister's maiden answer should be heard in silence!

The Hon. R.D. LAWSON: I thank the honourable member for his question and I know of his interest in rural matters and, in particular, community care in relation to rural matters. The Home and Community Care program presently provides $70.4 million to South Australia on a wide range of supports for older people and to younger people with disabilities and their carers. The purpose of course is to enhance the ability of such people to live independently in the community, and transport services are an important aspect of that. Already a number of transport networks are established under the HACC program in conjunction with the Passenger Transport Board. For example, networks exist in the Barossa Valley, the Fleurieu Peninsula and the Murray-Mallee where they have been operating for some time. Trips in those regions exceeded 17 000 last year, a 53 per cent increase on the 1995-96 figure.

The Passenger Transport Board and the Office for the Ageing have agreed to adopt a coordinated approach in relation to the funding of these transport networks in country areas. Whilst the Transport Board has responsibility for planning, the Office for the Ageing is involved in that process. HACC has provided, I think, in the past financial year some $248 000 in recurrent funding for community transport.

Networks are being currently developed in the South-East, the Riverland and the Mid North and preliminary studies are under way for Eyre Peninsula. I know the Hon. Caroline Schaefer will be pleased to hear that. I refer also to Port Pirie, the Lower Flinders region, Yorke Peninsula, the Hills district, Port Augusta, the Flinders Ranges area and also Andamooka. There is an extensive process of development of community transport networks. That process is intended to continue throughout this year. In addition, the Office for the Ageing will be providing additional one off funding to the Passenger Transport Board to coordinate community transport services in the metropolitan area of $125 000 in the current year. So, in this important area of transport, because people with special needs and their carers do require transport services to enable them to live independently in the community, the Government is paying close attention to the needs of the community.

ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from 4 December. Page 78.)

The Hon. T. CROTHERS: Mr President, allow me in opening my Address in Reply remarks to pay tribute to His Excellency the Governor for his ongoing continuance of following the traditions, customs and practices of previous Governors over the past 150 years or more of this State's history from the first date of European settlement. I might add that, in respect of this reference, His Excellency has discarded the bad practices of some of the earlier occupiers of this high office of State which, I am sure, will only serve to strengthen the view South Australians have of him in the discharge of his many functions. It might well be that decisions made by the Constitutional Convention will ultimately lead to the abolition of that office. Indeed, His Excellency may be the last holder of the position in its present form, although I believe that that does not have to be the case. Therefore I wish His Excellency well in the ongoing continuance of this high office.

Whilst on the subject matter of the role of the Governor, I must inform the House that on the occasion of His Excellency's address to the opening of Parliament late last year I found it an address which did not contain many matters of meaningful substance with respect to futuristic Government policy for this State. Let me hasten to add that in my view no blame for this can be laid at the door of the Governor. We here in this Chamber are all aware that the Governor's opening day address is prepared for him by the Government of the day, based on what the Ministers of the Crown at that time perceive to be the policy settings for the 12 months or more ahead.

Therefore, it was with some irony that I read the latest reports of the Liberal Party's Caucus meeting of early February this year when it was seriously avowed by some of the attendees of that meeting that one of the very important agenda items for decision making at that cabal related to the future policy direction of the Liberal Government for the next four years. I, being very innocent, already thought that His Excellency's address in this Chamber on opening day had already laid down this Government's policy for the next 12 months or more. It may well be that this is some evidence of the present Government still being split into two factional camps with one camp compiling the policy component of His Excellency's opening address and the other camp compiling the policy elements of the Liberal Party's full Caucus meeting.

I note that a member of the other place, Mr Hamilton-Smith, a former Lieutenant Colonel in the Australian SAS, proposed that the Liberal Party hire a professional adviser on bonding and united fellowship amongst the South Australian parliamentary Liberal members. It just might be that his former specialised training in the Australian Special Air Service has indicated to him that in the present State Liberal parliamentary Party the position of lack of unified purpose is so desperate that the time has come when desperate times need desperate remedial measures. Who knows? Time, I guess, will tell.

However, in a gesture of goodwill and for the sake of some form of better Government for South Australians than what they have had over the past four years, as a former numbers cruncher and factional leader in the Australian Labor Party, I offer my services and experience gratis to the present Government in the same manner in which the current Labor Leader, the Hon. Michael Rann, extended his to the present Premier, the Hon. John Olsen, over the building of the Adelaide to Darwin rail link—an offer which was made with no strings attached.

Unfortunately for the people of South Australia that offer was rejected out of hand by the Premier. I for one was absolutely nonplussed by the Premier's refusal of the Hon. Mr Rann's offer. One does not have to be an Albert Einstein to know that in relation to this project, so desperately needed by this State and so very difficult to attract the necessary finance for, any help the Government can get, particularly when it was so freely offered, should not have been spurned by the present Premier.

This becomes all the more painful to bear when one considers that Victoria is also endeavouring to build a Melbourne to Darwin rail link. To that end I note that Mr Costello, the present Liberal Federal Government's Treasurer and himself a Victorian, has apparently given the Adelaide to Darwin rail link the flick, even though it is remembered that during the course of the last election in this State he was able to announce a fairly substantial grant of millions of dollars for that link. Perhaps this was just an act of good electoral fellowship towards his State Liberal Party parliamentarians, or to put it another way he may have felt that the time had come for all good men to come to the aid of the Party.

Having endeavoured to deal with the policy of the present Government and its immediate predecessor in that office I now wish to look at both these Government's performances in office in order, so to speak, to mark their scorecards. I make this comment because my perception of the present Government is that it is still in electoral shell shock for the caning handed out to it by the people of this State at the recently held State election. It takes quite a lack of political street-smart to go from a position of having the second biggest majority ever in the history of this Parliament, as the present Government had in the last Parliament, to being forced into coalition with three Independents in order for the Government to survive in its present form.

Ordinary people in the South Australian electorate have again showed that they are most capable of judging a Government's performance and then delivering the necessary judgment on it, and this was done with almost disastrous results for the Olsen Government in spite of the fact that the Liberal Party yet again raised the ghost of the State Bank issue. Clearly the people's vote on this occasion showed that South Australians wanted the Government of the day to get on with the business of running the State in and for the best interests of the people. Let there be no doubt about it, though. You have been warned by the people. They will not tolerate political infighting. Should you continue down this path then at the next election there will be no second coming for you.

I believe that the electorate has also clearly shown by its voting pattern considerable opposition to economic rationalisation whether it is done by a Liberal Party Government or a Labor Party Government. I for one believe that they are quite right in so doing. Time after time under both Parties have we seen tens of thousands of State and Federal public servants laid off in the name of economic rationalism with their former tasks either being abolished or, in the main, farmed out to private companies, many of which are owned by overseas interests. Two such items that readily spring to mind are SA Water and the Government's computer program systems. In spite of assurances to the contrary, this means that the bulk of the profit generated by these two companies will be expatriated off-shore, thus adding to our already horrendous balance of payments problems.

These events are made possible by the fact of the opening up of the consumer market on mainland China and in the other so-called tigers of East Asia. Until that event occurred the purveyors of international capital could not have afforded the levels of unemployment which currently exist in what is euphemistically known as the nations of the west. They would have been too worried about the reduction of consumer purchasing power for their end manufactured products to have allowed the present levels of unemployment, which, incidentally, have plagued us all for the past decade or more, to continue to exist.

International capital now believes that with the opening up of the mainland Chinese market it no longer has to rely on the purchasing power of the peoples of the so-called western nations. Governments of all political persuasions in Australia should take heed that the opening up of Chinese markets is a two-way street and most certainly within the next two decades China will be producing consumer goods of all sorts and of such quality and at such low prices that no other nation, because of the size of the Chinese domestic market, will be able to compete. Truly then will the standard of living of the so-called western nations decline dramatically.

Out of those then rust-bucket nations there is no telling what will emerge to fill that vacuum. As for the purveyors of international capital, they just do not care where they make their profits or, for that matter, about the damage that is done to the social fabric of nations that they leave floundering in their wake in their pursuit of greater and greedier profits on their invested capital. Bigger is not always better for the betterment of the global human family when greed of this nature is allowed to run rampant in the most unchecked fashion ever since human history was first recorded.

Turning yet again, if I may, to the performance of the Liberal Party whilst in office, I will first turn my attention to the Clayton's tax style of the previous and present Governments and their Federal Liberal colleagues. The residents living in the five or six council areas which have responsibility in part with the State Government for the Torrens Valley catchment area have now been paying a levy each year to the local councils for the purposes of cleaning up and purifying that catchment area. This levy (so-called; it is really a form of State Government taxation in disguise) has saved the State Government millions of dollars since its inception.

The very significant percentage increases in charges for gas, water and electricity are yet again other examples of the Liberal Party's significantly raising the levels of revenue

without calling for tax increases. For, you see, Mr President, Governments know that the population at large believe that they are already over-taxed. It must be said that my own Party did the same. The only saving face I can offer here is that the revenue raised in the charges levied by the ALP whilst in government was much less than is currently the case.

A recent report recommends a $4.50 charge each time rubbish is collected by local councils. I sincerely hope that the Government does not pick this up. What with the massive reduction in the State and Federal Public Services, many people are already beginning to ask just what they are getting in services for the taxes that are currently being paid. Let us not forget the Federal Government's gun levy, either. This too, although it was called a levy, was in fact another tax.

So, there we see the pattern of taxation policy by the Liberal Party at both the State and Federal levels. It is nothing less than taxation by stealth, and it therefore follows that Governments are treating South Australians—indeed, all Australians—as fools, with this type of chicanery. It is in fact government by deceit and, because of this disunity, chicanery and deceit, the problems of this State, brought about in part by the State Bank disaster, have never been dealt with properly. Rather, they have been stood aside for the next generation to handle.

In the words of a former British Prime Minister, Mr Harold Macmillan, a member of the Conservative Party, if, as the Brown-Olsen Government did and the present Olsen Government does and intends to do, you continue to sell off the family silver, where do you go when you have nothing left to sell? It is a very gloomy picture indeed for the future wellbeing of our State.

For all the foregoing reasons and much more besides, I give the former Brown-Olsen Government a three out of 10 mark on its report card. I suppose it is early days yet for the present Olsen Government, and to tell the truth I am somewhat confused as to its progress, because I cannot find out what its policies are. In order to make a report card, one must first divine the contents of such a card. In front of me and everyone else in this State are the policies contained in His Excellency the Governor's address and the Liberal Parliamentary Party's Caucus meeting of early February. Amongst other things, we were informed via an inspired media leak that this Caucus was formulating Government policy for the next four years.

To add to this policy confusion we must also consider the policies which the current Government put before the people of South Australia at the last State election. As a consequence of all this, I am unable to formulate a report card of any substance to enable me to gauge any meaningful progress at all of this present Government. Truly, this present Government will be dead for four days before we know they are missing. The people of this State deserve better than what we have seen for the past 4½ years. Time will tell, but it seems to me that the only way in which that might eventuate is to sweep this lot from office at the next election. Believe me, if you do not lift your game that is just what will happen.

I cannot finish my contribution without making some reference to the recent happenings at Webb Dock, and I do so in the firm knowledge of shortcomings on both sides of that equation. First, let me put on record that the company which operates our wharves here has come out in defence of the productivity levels which it has made here in conjunction with the Maritime Union of Australia. That company is known as Sea-Land. I do not know whether it is an American company, but it is certainly run by an American—a Capt. Andrew Andrews—who, whilst he was being interviewed on the ABC radio on 3 January, was asked by the reporter:

> You use maritime union Labor. Are you saying it is possible to run an efficient waterfront business in Australia using [Maritime Union of Australia] labour?

To that, he replied:

> Without a doubt, yes.

So much for some of the untruths and semi-truths we have heard being peddled around in this dispute! Whilst it must be said that in some areas progress in the direction of productivity gains has been slow, at least forward progress was being made. Significant progress was being made not only here in South Australia: there was significant progress in the West, in the Northern Territory and in parts of the ports of Queensland. What we have seen in some areas has been slow, but at least some forward progress was being made.

The last thing this nation needs is for us to see the transfer of the Dubai debacle to our wharves here. Indeed, as has been admitted by Patricks Stevedoring, the lease of part of its business to the National Farmers Federation had already been entered into prior to Dubai. The only conclusion one can draw from that is that, if the training scheme at Dubai had been fully consummated, the trainees were to be employed at Webb Dock.

By the way, I do not know how the National Farmers Federation got involved in this because, as I understand it, no farm produce whatsoever goes over the wharves at Webb Dock. But involved it is. The only conclusion I or any logical person can draw is that the Dubai trainees were to be employed at Webb Dock. That means that this disruption was preplanned in the most sinister way possible. It is now established as a fact that this dispute was started by Patricks itself when, contrary to the legal agreement it had with the MUA and its members, it locked out its employees. Then, obviously under outside advice, it opened its wharf gates some seven to 10 days later and proceeded to cry 'foul', all the way up to the Industrial Court.

One does not have to be a Rhodes scholar to understand the motives surrounding this activity all the way from Dubai to Webb Dock. It is a sinister scheme aimed, first, at smashing the MUA and then dealing with other elements of organised Australian labour. We saw Hitler and Stalin do the very same thing in respect of organised labour and unions in both Russia and Germany in the 1930s.

It is my belief that the Federal Minister of Industrial Affairs is heavily involved in this nefarious sinister act and, even if only some officers of his department are involved in this scheme, it is scandalous and an absolute blatant misuse of taxpayers' money. The Minister should be called to account for this.

I further believe that the other barrel of this motivational shotgun is being fired in Minister Reith's own self-interest, as the jockeying for the position of successor to the Prime Minister between Mr Reith and Mr Costello heats up. I thought that I would never say this, but I hope Mr Costello gets up (though I understand Mr Reith currently has the numbers). I never thought I would say that, but I did. No matter what way I look at it I say, 'Shame on you, Mr Reith, for the untold economic damage which your actions as Minister have brought down on the heads of all Australians, either because of your handling—or lack of handling—of your industrial relations portfolio.'

There is another school of thought which says that the Howard Government will take us to an early election in

August or September of this year and that it will to have to manufacture some focal point. The position on Wik is clearly one such focal point, but the position about the Maritime Union of Australia is clearly yet another manufactured focal point that it would utilise in the fullest way possible come that unnecessary early election. We will be taken to that early election because John Howard well knows that the impact of the economic problems in Asia will start coming back onto this nation from about December of this year and onwards into the next year. I hope the voters do not let him get away with that.

Again I say, 'Shame on you Mr Reith for what you are doing, for whatever reason. My own view, however, is that given time the actions which you are so obviously aware of, even if not directly, will have the opposite effect to that which you intended them to have. Far from busting the unions, your actions will once again make clear to the people of Australia how necessary it is to join the appropriate union, so that they as single workers can achieve the necessary representation and protection which they obviously so desperately need, given your present attitude and that of some of your Government colleagues. Talking of whom, I am reminded that the present Minister of Defence, when President of the Farmers Union, was involved in something similar over the live sheep issue. I hope the seeds of your ideas Mr Reith do not owe their genesis to that dispute. In saying that I have a terrible feeling of *deja vu* about all of this.'

The ultimate outcome of the live sheep dispute brought about the closure of many abattoirs, particularly in the country, with the resultant loss of thousands of Australian jobs. Little New Zealand held on to its anti- live sheep exporting principles for some years after Australia had commenced exporting live sheep but, because of pressure on it from Middle Eastern importers, fuelled by Australia's attitude, New Zealand, too, had to commence the exportation of live animals with the resultant loss of many New Zealand jobs in abattoirs.

For the public record I am known to the Minister of Defence from a former life of mine, and he well knows that when I was a union official I was known by employers in the industry which my union represented as a rational, reasonable man. I say this to you Mr Reith, so as for you to avoid the pitfall of calling me a raving left-wing Commie ratbag.

The South Australian branch of the Maritime Union of Australia and other States have clearly shown that it is possible for representatives of both employees and employers, provided that the will and the goodwill exists on both sides, to negotiate on all things including best practice and productivity. These things therefore, as has been shown, can be done by negotiation. Indeed, if this current matter is to be resolved, negotiation is the only way forward. People, for whatever reason, must not be allowed to address these matters by embarking on philosophical witch-hunts and union bashing exercises, either for personal or political gain or for the philosophical sport of that exercise.

At the present time Australia's economic balance, what with the horrendous economic problems being experienced in East Asia, is far too delicate and fragile for us to have to continue to endure this man-made nonsense of Peter Reith and his cabalistic colleagues.

I conclude on this note: our farmers in South Australia, after taking many hard knocks, have just seen the completion of their third good season in a row. I for one believe that they have earned, and earned the hard way, whatever economic gains they will make out of that good luck with the weather. I hope that this man-made folly does not spill over onto South Australia's wharves, thus having considerable detrimental economic effect on our farmers and other exporters. This could have terrible economic consequences for this State, in spite of the fact that the South Australian waterfront is, in the words of the present employer, in the front rank of productivity levels across the world—ranked in the top dozen, if I remember him correctly. I commend the Address in Reply to His Excellency, and I thank all members for listening.

The Hon. J.F. STEFANI: I am pleased to support the motion for the adoption of the Address in Reply and, in so doing, commend His Excellency the Governor of South Australia, Sir Eric Neal, for his speech in opening the First Session of this the Forty-Ninth Parliament.

I join with His Excellency and other parliamentary colleagues in expressing regret and condolences to the families of former members of Parliament who have passed away: the Hon. Boyd Dawkins, MBE; the Hon. Jack Slater; and Mr Reg Curren.

Also, I offer congratulations to you, Mr President, on your election as President of the Legislative Council and congratulate other newly elected members of the Legislative Council.

I acknowledge the work accomplished by the former President of the Legislative Council, the Hon. Peter Dunn, who served as President from 1994 to 1997. In expressing my appreciation for his fairness and neutrality, I take this opportunity to wish him a long and happy retirement.

In his speech at the opening of Parliament, His Excellency emphasised the importance of economic recovery and the rejuvenation of our State through growth. These priorities, together with the important task of job creation for our young people, remain the major goals for the Liberal Government over the next few years. The Government is focusing on major public sector reforms in order to achieve greater efficiency in an effort to assist in the process of rebuilding our economy.

I consider, however, that the Government must also take appropriate steps to curb the large amount of money wasted by the South Australian community through gambling on poker machines, which were first introduced in this State by the Bannon Labor Government. We are all aware of the huge financial problems which were left behind by the previous Labor Government and which have retarded our economic growth for more than a decade and affected our ability to expand as a State.

Sadly, the burden of Labor's financial mismanagement will take many more years to rectify because there are no quick solutions to the long and hard road to economic recovery. As taxpayers, we all share in carrying this financial burden created by the extraordinary losses incurred through reckless and irresponsible management decisions taken under the former Labor Administration. The Liberal Government has worked hard to achieve a balanced budget and is determined to achieve a much stronger economy in order to create better job opportunities for all South Australians, particularly for the young unemployed people in our State. It is fair to say that we have a long way to go before the job of fixing our State's financial problems is completed.

Much of our prosperity is now dependent upon foreign trade and investment, and our economic recovery over the past few years has been led by a steady export growth and trade with Asia and other countries in the world, including Europe. In the light of the recent economic meltdown in the Asian region, it is important for us to remind ourselves that

the European Union still remains Australia's largest economic partner—we must never ignore this fact.

Balance of payment figures recently released by the Australian Bureau of Statistics have reaffirmed that the European Union is Australia's largest trading partner—a position it has clearly held for the past seven years. Over the past five year period, bilateral economic links between the European Union and Australia have grown stronger and have not diminished despite the fact that both parties increased engagement with Asia to exploit trade opportunities in the fast growing economies of the Asian region. As we adjust to the downturn of trade with Asia because of the economic meltdown, we should refocus our attention on Europe which remains Australia's strongest economic partner.

It is important to recognise the reason why we use balance of payment figures—because balance of payment figures provide a statistical record of a country's economic transactions with the rest of the world. The current account of the balance of payments is the systematic recording of export and import of goods and services, investment income receivable and payable abroad, as well as unrequited transfers, and it provides us with a total picture of Australia's economic interaction with other countries and regions. A study of the current account therefore offers a more comprehensive and balanced view of Australia's global economic relations than that which would be gained from focussing solely on developments in merchandise exports and imports.

For example, in 1995-96, Australia's current account transactions with the European Union totalled $A48.1 billion or about 20 per cent of the total transactions with all countries. In comparison, Japan and the USA each accounted for about 15 per cent of the total transactions, whilst ASEAN economies accounted for a further 11 per cent. In 1995-96, the European Union eclipsed Japan as Australia's largest trading partner with two-way bilateral trade amounting to $A27.8 billion or 18 per cent of the total trade.

The European Union remains Australia's largest 'trade-in-services' partner with a $A9.4 billion two-way bilateral trade or 24 per cent of the total trade in this area. Investment income, in terms of stock investment, also provides a significant contribution to the overall economic relationship between the European Union and Australia, accounting for $A9.2 billion in 1995-96 or 26 per cent of the total. Underlining the strong economic relationship which exists between the European Union and Australia is our investment partnership, because the European Union is the leading foreign investor in Australia and also the major destination for Australian direct investment abroad.

Importantly, such a strong investment relationship brings with it the scope for stronger trading relationships, technology transfer and enhancement of employment in both the domestic and export sectors of the economy. At the end of March 1997, the European Union's accumulated investment in Australia stood at $A142 billion, or 30 per cent of total foreign investment. This compares with $A117 billion from the USA and $A53 billion from Japan. In the last seven quarters, the flow of capital from the European Union to Australia was almost $A18 billion, which is nearly twice that of Japan and 12 times that of ASEAN.

It is interesting to note that, although investment from the European Union remains focused on the United Kingdom, there are indications that other European countries are becoming increasingly important investors in Australia. In terms of accumulated investment in Australia by the European Union, the finance and insurance sector is the most significant with $A37 billion invested accounting for 29 per cent of the total investment in Australia by the European Union. This investment adds to the competitive structure of the Australian financial sector and provides additional sources of capital for Australian industry.

The second most significant sector of investment by the European Union is in the manufacturing industry, where the European Union continues to be the major investor by providing $A33 billion or 40 per cent of Australia's requirements for foreign capital, and this investment represents approximately 26 per cent of the European Union's investment in Australia. Some of the main areas of capital investment in this sector include: petroleum, coal, chemical, food, beverages, tobacco, metal products, printing, publishing, recorded medial, machinery and equipment.

The European Union is also the leading foreign investor in Australia's mining sector, providing $A17 billion or 40 per cent of the total foreign investment in this sector. Other service sectors where the European Union has invested significant capital include: areas of defence and Government administration in which $A13 billion has been invested; wholesale trade with an investment of $A12 billion; and transport and storage in which $A3 billion has been invested. These also figure significantly in this service sector.

On the other side of the ledger, the European Union is a key destination for Australia's investment overseas, with some $A39 billion invested at June 1996. Australian investment in the European Union increased by $A4.8 billion in 1995-96. As in the previous year, there was a strong interest in European manufacturing, where investment exceeded Australian flows into the US and Japanese manufacturing. Direct investment in the manufacturing area of the European Union reached almost $A9 billion in 1996, more than doubling the investment in this area over the past five years.

Services have long been recognised as an important component of the domestic economy of developed countries. For example, services currently account for nearly 70 per cent of Australia's gross domestic product and employ 80 per cent of Australia's work force. However, more recently there has been a growing awareness of the contribution that 'trade-in-services' is making and increasingly will make in the global economy to the prosperity of industrialised countries. Australia is no exception in this area of activity with service exports increasing over the past 10 years.

The European Union is also Australia's largest trading partner in other areas of merchandise trade such as wool; metallic salts and peroxysalts; nickel ores and concentrates; alcoholic beverages such as wine, which in 1995-96 reached a total export of $A282 million; leather and raw skins with a value of $A207 million; ships, boats and floating structures; minerals such as copper, gold, iron ore and lead; and meat and offal.

Given Australia's long established ties with the European Union, it is perhaps not surprising that the European Union has consistently been Australia's largest trading partner over a long period. It is my view that this trend will continue in the future and South Australia would do well in pursuing greater trade opportunities with the European Union in the future.

I have spoken about the Australian and the South Australian economies and now I would like to say a few words about immigration and the Australian economy. We are all aware that South Australia has an ageing population and that, as a State, we are not attracting an adequate proportion of the immigrant population arriving in Australia. Since 1993, the South Australian Liberal Government has

been working to develop new strategies to reverse this trend and has adopted a number of initiatives and promotional programs which have already provided some encouraging results in terms of the number of immigrants and young immigrant families choosing to settle in South Australia.

Among the many effects of immigration, its impact on the Australian economy has nearly always generated keen public interest and debate. Much research has been undertaken in this area since the late 1970s and today I will endeavour to outline what I believe are some of the effects which immigration has had on our State and national economies. Immigration has had an influence on both the demand and the supply sides of the economy and in various ways. I will first deal with the effects of the demands created by immigration. Immigration increases the demand for housing, for household consumption of goods and services as well as Government services, for industry and infrastructure investment and for imports. While many new immigrants share accommodation with existing residents, in the longer term immigration contributes substantially to housing demand. Overall, home ownership for the overseas-born is slightly below that of Australian-born people.

It has been acknowledged that immigration households spend proportionately more on food and recent arrivals spend more on housing-related goods. The impact of immigration on the amount and pattern of the average household expenditure tends to expand the national economy. Within the Government sector the overseas-born are not disproportionate users of the Australian social security system. The intake profile has indeed been such that immigration would, with all other things being equal, lead to relatively lower *per capita* demands for both social security and health services in the longer term, though somewhat higher demand for education.

Immigration generates a significant demand for industry and infrastructure investment if pre-immigration levels of consumption and economic welfare are to be sustained. The investment demand associated with a given intake is likely to peak in the short to medium term after arrival before tapering off in the longer term. Immigration also contributes to the national savings through its influence on the domestic budget. The budgetary effect of a given intake is likely to change with a period of residence, with improved employment outcomes and varying usage of Government services.

Research suggests that immigrants have a negative budgetary effect in the short term but a positive one in the longer term. If individuals of different periods of residence are accorded equal importance in their budget effects, the overseas-born make a positive budgetary contribution overall. *Per capita* investment has responded positively to immigration in the past with both industry and infrastructure capital per person showing steady growth. Immigration has obvious supply-side consequences in the labour market where immigrants directly contribute to the production of goods and services. Overseas immigrants are more inclined to be engaged in full-time employment than non-immigrants.

Economic expansion generated by immigration leads to increased exports and imports. Research suggests that immigration may have had a marginally favourable effect on the aggregate unemployment rate even during periods of recession. In the longer term, and from a macroeconomic perspective, the basis of Australia's immigration policy must be consistent in size with the immigration rates which have generally prevailed since the Second World War. Ideally, the composition of our immigration intake should be such that it will maximise the labour market participation and skills of immigrants.

The need to make best use of potential skill contributions brought with immigration points to the continuing need for ready and equitable access by immigrants to English language and labour market adjustment programs, to appropriate accreditation processes for foreign qualifications and to domestic education and training.

Finally, evidence would suggest that the traditional economic focus and debate on immigration may have been to a significant extent overemphasised by supporters and critics alike. The perceived negative economic effects and hard position taken by some observers have simply not been justified. I support the motion.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

PUBLIC SECTOR MANAGEMENT (INCOMPATIBLE PUBLIC OFFICES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 December. Page 108.)

The Hon. P. HOLLOWAY: The Opposition supports this Bill in principle. In his Audit Overview for the year ended 30 June 1996, the Auditor-General quite rightly raised the issue of 'incompatible public offices', a common law rule which states that a person cannot hold two incompatible public offices at the same time. The Auditor-General highlighted the problem which faces many public servants who are employed in a department and who are appointed to boards of statutory authorities. The common law rule is as follows:

> Where two offices are incompatible, they cannot be held together.

As the Auditor-General pointed out, this common law rule was enshrined in our South Australian Constitution Act 1934 in the case of members of Parliament. Where a member accepts any office of profit from the Crown, other than offices required by the Act, his or her seat will be declared vacant by virtue of this fact, and I am sure that the serious implications for members of Parliament have been seen in the Federal arena over the past five or 10 years, particularly in the cases of Phil Cleary and, affecting this Parliament, Jeannie Ferris who was reappointed to the Senate following questions about her eligibility. This principle does have serious implications for members of Parliament and I think for that reason the Auditor-General was very wise in raising the comparable problem that might be faced by public servants.

In relation to public servants, the incompatibility arises where the official role of the public servant is called into conflict. The common law position is that, when a person while occupying one office accepts another incompatible with the first, the person automatically vacates the first office and, therefore, there is an obvious need for the Legislature to deal responsibly with this dilemma.

The Opposition commends the Auditor-General on bringing this issue to the attention of Parliament. The Auditor-General has detailed at length the risks of ignoring this issue and, in fact, has identified a number of areas within the South Australian public sector where there is need for further investigation. He states that there are potential consequences, not just for the Public Service or Government

but for the individual public servant in question, which demand from this Parliament a speedy remedy.

The Auditor-General spells out that the common law rule can be displaced by legislation and gives a number of examples where this has occurred. One example he gives is the Institute of Medical and Veterinary Science Act. It is therefore in order for the Parliament to legislate to overcome the obstacle of 'incompatible public offices'. Because the doctrine of 'incompatible public offices' is different from the doctrine of 'conflict of interest', an incompatibility may be held to apply even where there is no conflict of interest.

The incompatibility of office involves a conflict of duties between two public offices, which can mean a conflict of interest. But a conflict of interest on its own exists where only one public office is involved with a conflict relating to an interest outside the realm of the office. Therefore, it is merely enough that the two incompatible offices are held. The Auditor-General gives a number of examples where incompatibility between two offices can arise and these stem from the situation where a public servant board member is an employee in a ministerial department which has responsibility for the statutory authority. The Auditor-General points out that incompatibility may arise:

> (a) Where the board provides advice to the Minister and the duty of the public servant in his or her department position is to furnish advice to the Minister on that tendered by the board;
>
> (b) Where the public servant acting as such has duties involving the supervision, making of recommendations, providing ministerial advice, etc., in relation to the board.

I refer to page 146 of the Auditor-General's overview for the year ended 30 June 1996. The Auditor-General recommended that this be rectified through legislation and his recommendations included the following:

- In all legislative enactments establishing a statutory authority, consideration should be given to the inclusion of provisions that make clear the legislature's intention regarding the appointment of public servants to be members of the board of such authority;
- A detailed review should be made of existing potential in compatible arrangements of public servants within ministerial departments. Where appropriate, remedial arrangements should be put in place to regularise the position so as not to prejudice public servants who have acted in good faith and who may be affected by the operation of the common law rule.

I note in the Attorney's second reading speech that he makes reference to instigating a 'targeted review' of existing appointments to Government boards and to include 'guidance and principles on the issue' in relevant Government publications. I would be interested to ascertain what exactly the Attorney means by the words 'targeted review'—who is he targeting—and will he be following the recommendations of the Auditor-General in establishing a detailed review of all existing potential incompatible appointments?

The Opposition supports the spirit of the Bill in its attempt to overcome the obstacle of incompatible public offices, although I do believe that the Bill does not necessarily fully cover the issue. It addresses the legality of the Auditor-General's concerns but not the spirit of them. Incompatible positions are defined to no longer exist within the provisions of this Bill. But the problem remains: where does the loyalty of a public servant holding two positions ultimately lie? Is it with the Minister and the department or with the statutory board? I will be moving an amendment in Committee to clarify the position in line with what I hope is the current convention and practice. I believe that board members should have a collegiate responsibility and, if ministerial directions are to be issued, they should be to the board collectively and not to individuals. I believe such an amendment would safeguard against any improper use and protect public servants from the incompatible situation they may be placed in.

The Opposition intends to address that matter in the Committee stage. I conclude by saying that I am pleased that the Auditor-General has raised this issue in his report. I thank him for his insightful and thorough investigation of this issue and for his thoughtful recommendations. We support the principle of legislative protection for public servants who hold incompatible public offices and we look forward to the later debate on this matter.

The Hon. A.J. REDFORD: Briefly, I rise to support the Bill. The purpose of the Bill is to deal with the report and the criticisms made by the Auditor-General in his 1996 report. As the Attorney said, the Bill is designed to protect public servants who have acted in good faith but who are affected by the operation of the common law rule pertaining to incompatible public offices. In lay terms, it means that there is a conflict between functions. It commonly occurs when a public servant board member is an employee in a ministerial department. That is one example and there are many others that all of us could share. When one looks at the Auditor-General's Report it is clear that this issue needs addressing. The response by the legislation is to state:

> Where a public servant is appointed to a second public office, that person is not taken to have vacated the first office and is not to be taken to have been invalidly appointed to the second office.

It goes on to say that the Governor can give directions *vis-a-vis* incompatible offices. In his second reading speech the Attorney also said, and my colleague the Hon. Paul Holloway also referred to this, that there is to be a targeted review of existing appointments to Government boards to ensure CEOs and statutory officers, first, do not hold incompatible offices; secondly, that there is to be a production of a guide on ethical behaviour; and, thirdly, that there is to be a guide produced in dealing with these appointments. A set of principles is also to be developed.

I note that the Opposition has filed amendments and that the Hon. Paul Holloway has dealt with them. He says that a public sector employee in a statutory body may not be given directions by a Minister. I am sure the Hon. Mr Holloway will deal with these issues in Committee but in looking at it, the amendment is fraught with interpretative or definitive difficulties. I will just raise some of those difficulties. First, the amendment does not deal with to whom a public sector employee might be accountable in such a circumstance. Often people are appointed to boards and committees because of that representative position. How many times have we stood in this place and debated whether or not an officer from an employer or employee body should or should not be appointed to a board? How often have I heard members opposite claim that a union member is there to represent that union?

I query the amendment to the extent that a public servant acting on a direction of a Minister may well be fulfilling the precise purpose of the appointment which led to that public servant serving on the board. The provision has no sanction. There is no definition of a direction and I am not sure how the Hon. Paul Holloway might deal with the position of a Minister making a suggestion to the public servant as to how that public servant ought to react or behave on that board. Is that said to be a direction? What if the public servant adopts that suggestion? Is there to be some sort of sanction or criticism on the part of the public servant for following that

suggestion? In this case are we placing an impediment between the public servant and the Minister? In fact, it might be better that any directions or advice given to a statutory body or public sector employee is out in the open.

This Bill raises a number of conceptual issues. Mr Acting President, as a member of the Statutory Authorities Review Committee you and I have dealt with many issues relating to board members and boards, how they interrelate with their respective statutory authorities and their various accountability mechanisms. In the last session of Parliament I would like to have had the opportunity to deal with some of these difficult and vexed issues. I know that you, Mr Acting President, take a great interest in this and I hope that, perhaps on the occasion of the next Statutory Authorities Review Committee, you have a more detailed look at how the role of incompatible offices involving public sector employees serving on boards of statutory authorities might be worked so that everybody understands the situation.

When this area is revisited we need to deal with just how incompatible offices can be addressed. There are many occasions of where a public servant in the one office has incompatible duties, and that issue has not been addressed in this legislation. I will not give any instances today, but one can imagine examples where there is incompatibility in the one office and there are no mechanisms to deal with that. In my view the mere disclosure of that incompatibility ought to be sufficient, and then the public, the Minister or whomever is affected by decisions made by these statutory bodies can make a judgment in the context of our democratic system and system of responsible Government.

I agree with this legislation. I hope that this Parliament, through the Statutory Authorities Review Committee, looks in some detail at how this can be dealt with in a more detailed and structured way so that public servants who are appointed to boards know precisely where they stand and there is less risk of their being criticised, and if there is incompatibility and they make a decision the simple transparency of that will be sufficient to satisfy the public interest and some of the concerns that the Auditor-General has raised. I commend the Bill to the Chamber.

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

HIGHWAYS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 December. Page 188.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading of the Bill. I have consulted fairly widely on this issue. As the Minister would be aware, we have in our Caucus a number of members who look after fairly remote and isolated areas, as do all of us in the Upper House. The consultation did not highlight any issues of concern but some points of clarification have been raised with me both by my Caucus colleagues and some members of the public. I will highlight those in my second reading speech and perhaps the Minister can reply to them in her response.

In the case of the first proposal, the Opposition is prepared to support such a measure which obviously is in the interests of driver safety and is an effort to minimise damage to roads. As regards the second proposal, which is to improve the operation of the Act regarding controlled access roads, I note the ambiguity of the Commissioner's powers. The Crown Solicitor advises that it could be interpreted that in relation to controlled access roads proclaimed prior to 1972 the Commissioner does not have the power to control access to and from private property, only from road junctions. I hope that the Minister has received the correct legal advice regarding this issue.

I agree that the ambiguity in the current legislation should be removed and support the toughening of penalties imposed upon those breaking the law. I also note that the penalty for drivers in both proposals is presently $100—an amount that has not changed since 1963. I would like to raise a number of issues for further clarification. What would be the situation if an outback road was the only access road to a private property? If the road was temporarily closed due to rain, how could the property owner access their property? Would the owner be exempt from penalties under this Bill in those sorts of situations? Has the Minister any information on who the main offenders are in terms of damage to unsealed roads? Would it be trucks and other heavy vehicles, farm vehicles or passenger vehicles?

I note that the Minister has indicated that the cost of regrading a damaged road is in the region of $160 per kilometre, which rises to $500 per kilometre if the road is rutted. Does this include the cost of getting a grader to an isolated area? It has been suggested that the cost does seem rather low. Will the Minister detail what other costs might be involved? Will the Minister outline the nature of the barriers? Do they cover the road entirely? How do cars get through at present when a road has been closed? Is it a semi-physical barrier of flags across the road or how do they shut off the road? How are the public and other people in the area alerted to an emergency closure? I believe that it is done by way of announcements on radio, television and newspapers. Perhaps the Minister might highlight that.

Some concern has been expressed about the delegation of the powers of the Commissioner to local government, the police and park rangers. Will any extra cost be associated with the delegation of these powers, say, for example, to local government? Has there been adequate consultation with the proposed new delegated officers and are they satisfied with their new responsibilities? What are the mechanisms for policing the activity? I am sure that in remote areas it would be very difficult to locate recalcitrant drivers who have deliberately driven on the road when it has been temporarily closed. Perhaps the Minister can give some detail of this.

Will the Minister detail any right of appeal mechanism which relates to charges under the Bill? For example, a person could argue that in an emergency the only way to get from point A to point B would be to travel on a closed road. Maybe the Minister might like to highlight the appeal mechanism under those circumstances? Is this Bill aimed at any particular roads? Have any roads been subject to serious damage when people have driven on them? I am sure the Minister can satisfactorily answer those questions.

The Hon. Diana Laidlaw: Our major concern has been the Strzelecki and Birdsville Tracks.

The Hon. CAROLYN PICKLES: Clearly that is an isolated area. We do not wish to hold up the Bill, but I would be happy if you could bring back those answers before we go to the Committee stage.

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

CRIMINAL LAW (FORENSIC PROCEDURES) BILL

Adjourned debate on second reading.

(Continued from 10 December. Page 193.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports this Bill, which seeks to change the law to authorise the carrying out of forensic procedures ranging from finger prints to swabs of genital areas and blood samples, and also includes arrangements for the storage, use and destruction of material derived from these procedures. This Bill is based on the model provisions developed by the Model Criminal Code Office's Committee of the Standing Committee of Attorneys-General and is part of a national attempt to achieve some uniformity or at least consistency across all jurisdictions.

I understand that the Victorian Parliament has introduced similar legislation and that the Commonwealth Government's Crimes Amendment (Forensic Procedures) Bill 1997 passed the House of Representatives last May and is now before the Senate after consideration by the Senate's Legal and Constitutional Legislation Committee.

The Opposition supports moves to achieve consistency across the country in this increasingly more complicated area of forensic science and acknowledges the efforts of the previous Federal Labor Government when it introduced the original Bill in the Federal Parliament, which legislation I understand lapsed with the 1996 election.

I acknowledge the Attorney-General's admission that this Bill is controversial, but I also note that there has been widespread consideration and consultation on the issue of forensic sampling as a tool of criminal investigation in Australia for the better part of the 1990s. The Opposition recognises the competing principles in the need for a balance between the civil liberties of an individual against the rights of the investigators of crime and their role in bringing perpetrators to justice. The Opposition supports the Bill.

The Hon. R.R. ROBERTS: I will make a brief contribution to this debate. My Leader in this place has pointed out the Opposition's view. To be quite frank, I did not look at this legislation with any great scrutiny when it was introduced. I was still in the habit of scrutinising legislation in areas for which I was responsible. However, during the Party debate on this matter, a number of issues were brought to my attention and in the time made available to me this afternoon I have looked at this at least in a cursory manner.

As a confessed strong civil libertarian over many years, I am concerned about some issues in this Bill. I understand that one of the reasons for introducing this legislation is to provide some consistency across the country. I am not opposed to consistency, but sometimes consistency means that everybody can be wrong or doing something that is harsh, unjust or unreasonable.

I understand that this Bill seeks to strike a balance between civil rights issues as opposed to the rights of the community, who also have the right to expect expedient investigations, and that is important. As has been highlighted by the Attorney-General, in general terms this Bill permits the compiling of forensic samples and their storage, use and destruction, subject to safeguards such as judicial scrutiny, informed consent and the protection of those who can be regarded as more vulnerable groups in the community.

As most members would know, I have strong views about civil liberties, and feel that parts of this Bill are intrusive and open to interpretation. I believe that the intrusive taking of forensic samples is an area of law about which we should be legislating, but we must be sensitive to the civil liberties issues and the law must be quite clear.

We do not want a situation where a suspect can have his or her forensic samples kept for two years in an investigation where they have clearly been found to have no attachment to the crime or where a conviction has been achieved. Furthermore, the police can apply for this period to be extended.

So, forensic samples may be taken from someone who has not been charged. That evidence is stored and is accessible on a national basis, even though it may have been proven within a short space of time that the person was clearly innocent and not involved in any way.

People have been critical of my stance in this area, based on their argument that if you are innocent you have nothing to worry about. I have been around legislation and disputes over legislation for some time, and I point to the example of victims of crime and their right to compensation. It is clear that, when a person has been a victim of crime, the compensation legislation kicks in. It has been clearly documented by a number of commentators (and I was on the Legislative Review Committee and took evidence from experts) that the recognition that a crime has been committed against that person and that they need to be compensated has a therapeutic effect. It is important that those people are not only seen as a victim of a crime but also that that fact has been clearly accepted. I believe that, where a person is innocent, a clear determination ought to be made that that person is innocent.

It has been put to me that the time for keeping these samples is two years. I point to the consistency argument, where I note that in his second reading speech the Attorney states:

> Honourable members may wish to note that the Coldrey report was even less compromising. It called for the destruction of all such evidence if no charge had been laid within six months—

and I agree with that—

> of the taking of the sample. . . The Victorian legislation reflects that recommendation (plus a power of the Magistrates Court to extend). The Commonwealth Bill allows a period of 12 months with the possibility of judicial extension. The Canadian DNA legislation also has a destruction/judicial extension requirement and, again, the period is 12 months. The UK legislation has no fixed limit but calls for [the] destruction [of that evidence] 'as soon as practicable'—

and that is commendable—

> after the proceedings are discontinued (and like decisions). This is, if anything, a more stringent criterion. The Bill here provides for a period of two years with a possibility of judicial extension. In addition, the Bill provides (as does the Commonwealth Bill) for the retention and use of unidentified samples for the purposes of creating and maintaining a database against which samples can be tested.

I have no problem with the retention and storage of forensic evidence that has been collected from time to time, where a victim has been tested for forensic evidence and that evidence is stored for future investigation for identification. I think the Edinburgh rape case some years ago was a clear example where a crime was able to be solved by the use of forensic evidence. However, where a citizen has DNA tests and within a short space of time it is determined that he has no association with the crime, it would give that person a certain state of mind for the next two years to know that this evidence still existed. I do not believe any innocent citizen ought to be subject to that sort of pressure.

I welcome the provision in the Bill of the right to have witnesses present. I also note that right extends only to intrusive forensic procedures and does not include an intimate procedure. Some people might say that if it was an intimate procedure you would not want witnesses but, if a person was concerned about the planting of evidence, whether or not it was an intimate procedure, they might choose to have a witness present, and I believe they should have that right.

Other concerns include the storage and destruction of forensic material. I am specifically concerned with the keeping of forensic material for the two year period. I think that holding forensic material for two years is too long. After all, two years is a long time for police to be investigating a crime. That may not cause a problem when there is a very strong indication that the person is still an ongoing suspect but, where another party has been convicted of the crime, I believe that that evidence ought to be destroyed.

I note from the Attorney-General's second reading speech that other jurisdictions have not implemented the two year period: instead, most of them have implemented the one year period. I believe that, if we are really talking about consistency, this Parliament ought to have gone for at least 12 months, although again I record my objection for even that long if a conviction has been achieved.

The other area on which I wish to comment is the keeping of a database. This Bill will provide for the retention and use of unidentified samples for the purpose of creating and maintaining a database against which samples can be tested. I have a problem coming to terms with the medical aspects of that. If we cannot identify the DNA—if it is unidentified—how do we test it? What comparisons do we make if it is unidentified material? I am somewhat concerned by the establishment of a database to store this information.

I know that the Bill has been introduced in good faith, but databases are not infallible, and putting this type of information on record is setting a dangerous precedent for free thinking Australians. I am concerned about section 48(3) of the Bill, which provides that the Minister may enter into an arrangement with the Minister responsible for the administration of corresponding law, providing for the exchange of information recorded in the database kept under this section and databases kept under corresponding law.

Again, we may have information clearly that has no relevance to the crime of which the person is suspected. In fact the whole case could be cleared up and the evidence would then be transferable from Minister to Minister. Governments in this State in particular and Governments around the Commonwealth or in English speaking nations are setting off in a dangerous area. There was in British law a presumption that one was innocent until proven guilty and the right to remain silent was entrenched in the law.

I note from a contribution in a recent press publication that the Attorney-General is looking at the right to remain silent. I give notice clearly that I will be opposing that most strenuously because the tenets of British law are just and have been proven over time and, simply because Governments cannot manage their budgets in such a way that they can provide the proper resources for proper investigation of crime in this country, we should not make it easy to get a conviction. We ought to be protecting the rights of that inalienable assumption that all people in the British Commonwealth, and indeed in South Australia, are presumed to be innocent until proven guilty and have the right to remain silent so as to not incriminate themselves. This legislation is moving us away from those basic tenets of British law and I express my concern.

It has been indicated by my Leader that on the balance of the arguments within our Caucus the majority of my colleagues believe that this legislation at this time is not overintrusive and the collective view is that we will support it. Consequently, in line with the Caucus decision, I will support it.

The Hon. IAN GILFILLAN: The Democrats support the second reading of the Bill. I was pleased to hear the observations made by my colleague the Hon. Ron Roberts because I, like he, feel distinct disquiet at this sort of legislation of convenience to make life easier for the police and those seeking prosecution and conviction, which is certainly an aim of our legal and policing structures. As the Hon. Ron Roberts so admirably emphasised, the spirit of British justice which we have inherited and one of the things which we cherish and of which we are duly proud is that we respect not only the right to remain distinctly innocent until proven guilty but also the right of confidentiality.

We are at the dawn of a new era of incredibly frightening big sister or big brother data compilation with its myriad opportunities for the hacking and misuse of information. One of our major concerns in this place is to ensure that we do not run headlong into traps that will turn around and catch us in years ahead.

I do not profess to be an expert and no-one could accuse me of being an expert in police investigation. Nor am I particularly expert in the skills of hacking into computers and word processors, but I claim to be able to do all finger typing on a word processor. I am proud of that achievement after four years out of this place. That is the extent of my knowledge. We will rely on others to ensure that we do not enact procedures and open up databases which will in turn eventually prove to be an intrusion on what we as a community and civilisation have developed as our right to privacy, anonymity and freedom from improper exchange of information about individuals.

This appears to be almost greenfields legislation for us as we are not replacing legislation, but it is a worthwhile attempt to codify and set down clear procedures and restraints on how forensic material evidence will be gathered and how it should be dealt with. It is a worthwhile legislative initiative and the Democrats support it.

However, I repeat that with that support we hope that we can be reassured that nothing is being undertaken in this Bill which will be over the top in relation to the infringement of civil liberties or exposing us to serious misuse of personal data down the track. I also have confidence in this institution of ours so that, if we find that there are areas which need to be revisited, the Attorney will not hesitate to bring back amending Bills to this place. If not, I am sure that the Hon. Ron Roberts and the Democrats will do so. I support the Bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for this Bill. Since the Bill was introduced in December, it has been circulated widely. As a result, a number of further submissions have been made to my office, and as a result there will be further amendments that hopefully I will get on file tomorrow and give members sufficient time to consider the amendments before dealing with the Committee stages of the Bill.

As has been recognised, the Bill has been subject to extensive consultation, even since the Model Criminal Code

Officers Committee reported on this issue. It was introduced in the Federal Parliament and I believe has now passed. In Victoria a similar piece of legislation is in place. It is not absolutely uniform. We have taken some decisions in this State which will better achieve that balance between the liberty of the individual but on the other hand provide adequate tools by which law enforcement agencies can bring a guilty person to justice.

I am as sensitive as anybody to the civil liberty issues which are raised by this Bill. It is one of the reasons why we have undertaken extensive consultation over the past 18 months to two years to try to get a balance between the competing interests. I have no doubt that if I were on the prosecuting side of a criminal case I would be unhappy with some of these provisions, because they do not give as much freedom to law enforcement officers as might be necessary to get the appropriate evidence to ultimately bring the guilty person to justice. On the other hand, an accused or someone who might be sensitive to the rights of an accused person might say that the powers of police go much further than they should. It is a question of where you draw the line.

The issue with DNA databases is an important one. Whilst I was in the United States about three years ago, I looked at some of the work that was being done in relation to DNA databases. They were essentially of a pilot nature, but they were regarded as being a particularly valuable means by which offenders could be brought to justice. One must recognise that the United States places a great deal of emphasis upon the liberty of the citizen in the context of the criminal justice system. However, in that country, because the DNA of those who have been convicted is kept on the database, they have been able to match that against forensic material which has been collected from the scenes of crimes, and they have been able to pick up repeat offenders.

In the United Kingdom a powerful argument was put to the Australian Police Ministers' Council, which I chaired, as the Minister for Police, Correctional Services and Emergency Services, in October-November last year. A very powerful presentation was made about the way in which DNA databases are used in the United Kingdom effectively to bring to justice those who have committed offences such as break and enter, not just rapes, assaults and homicides, but those more commonplace offences, such as break and enter, that are more troublesome for the citizen. What we have done—

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: That's right, and that is what this is all about. If you look—

The Hon. R.R. Roberts: You're taking and keeping evidence on the innocent as well.

The Hon. K.T. GRIFFIN: That's not on the database. Forensic material would be kept for two years. That was determined to be a reasonable period. Clause 48 provides:

> (1) The Commissioner of Police may maintain a database of information obtained from carrying out forensic procedures under this Act.
>
> (2) A DNA profile derived from material obtained from carrying out a forensic procedure under this Act may only be stored on a database if the person from whom the material was obtained—
>
> (a) was found guilty of the offence in relation to which the forensic procedure was carried out; [convicted] or
>
> (b) was declared to be liable to supervision under part 8A of the Criminal Law Consolidation Act.

That is the mental impairment part of the Criminal Law Consolidation Act. So we are dealing with DNA material from convicts—persons who have been convicted. Personally, I have no difficulty with keeping that. Their fingerprints are on the record forever, their criminal record is maintained, and their photograph (front and profile) is maintained as well as other information of an identifying nature. So, why should we not be able to keep the DNA material of a convicted person on a database, access to which is limited? It must be a national database because of the number of samples which must be kept to give a proper spread and to be able to eliminate suspects more easily.

I do not understand fully the whole spectrum of techniques relating to DNA, but I am told that you need a large number of samples from a wide range of people so that you can build up a sufficient database to be able to exclude possibilities. I do not have the same concern about the database as the Hon. Ron Roberts, but I respect the views of those who have spoken about issues of civil liberty.

In this Bill, we have tried to find a balance to ensure that law enforcement officers have an opportunity to take forensic material but in a way which is supervised, if it is not by consent, and, where it is intrusive, to have in place even further safeguards. You will see the process for interim orders and final orders in relation to the taking of material, interim orders particularly where there is a situation of urgency, where it is likely that—

The Hon. Ian Gilfillan: Do you have any detail of how long database entries are kept? Are they kept after death or is there a time frame? Will that sort of matter be addressed?

The Hon. K.T. GRIFFIN: The honourable member can raise those questions if he wishes. If they are relevant—I must confess that I have not turned my mind to the question of whether they should remain after death, but there may be good reason to do so—

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: No. If a person has died but if he was convicted and his DNA was on the database that may be useful to help to solve an offence which occurred before death. If the honourable member wants to raise these sorts of issues in Committee, I am happy for that to occur. I may not be able to give him all the answers off the cuff which he or I might like, but we should be able to make some progress. If you keep DNA of people who have not been convicted, that is a different issue: it raises a whole range of issues about liberty and rights that I suggest are not raised in relation to the storage on a database of material from persons who have been found guilty of an offence. If members have other issues relating to the database, I am happy to try to deal with those during the Committee consideration of the Bill. I repeat my appreciation of the indications of support for the second reading of this Bill.

Bill read a second time.

LIQUOR LICENSING (LICENCE FEES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 December. Page 194.)

The Hon. CARMEL ZOLLO: The Labor Opposition supports and welcomes the general thrust of this Bill. This Bill has arisen because since the Liquor Licensing Act 1997 came into operation last October many community and sporting clubs have expressed concern that the Act disadvantages them financially. The fundamental problem is that the Act as it stands does not differentiate between commercially oriented clubs and community clubs run by volunteers. It

does not recognise a distinction between clubs that do not hold a gaming machine licence and those that generally trade only with their members and invited guests.

As I understand it, the present Act requires a licence fee of $69 for a responsible person or an approved manager for supervising the sale of liquor, a fee of $58 for personal information declaration clearance and costly training, if deemed necessary for such supervision, of up to $200. It is not unusual for many community clubs to have a management committee of about 12 people or more, and such costs would prove quite difficult.

In the past few months, the Opposition has received numerous representations from community clubs outlining their objections to their financial obligations under the current Act. For many sport and community clubs run by volunteers, many of which are struggling to survive financially, the impact would be disastrous.

Interestingly, I am advised by my colleague, the shadow Attorney in the other place, that at no time did the Licensed Clubs Association make representation to the Opposition in the last Parliament when the Bill was being considered, even though submissions were made to the Government. I have also read the *Hansard* debate of both Houses on the principal Act and I know that the Opposition raised some very spirited debate concerning the issues of employment of 16-year-old and 17-year-old persons in the sale of liquor and the protection from a requirement to supply liquor with less than normal clothes on.

Another issue concerning the personal information declaration form has been brought to the attention of the Opposition. The detail required from a committee of management of a volunteer group is considered by many people an invasion of privacy. The matter was also raised with the Opposition by several constituents at a 'Labor Listens' forum in Coober Pedy last year. I subsequently raised this issue in a briefing I received via the Attorney-General's office and was advised at that time that it was considered necessary for responsible service and harm minimisation—something, of course, with which I have no argument.

However, since that time I have received a commitment in writing from the Attorney-General's office that the Deputy Liquor and Gaming Commissioner is prepared to have the form simplified for applicants who wish to sit on a committee of management of a club holding a limited club licence if this legislation is passed. I am naturally pleased with this commitment as I understand that volunteers in some community clubs did not see the need to disclose their family history for the sake of being involved in a leisure activity or a hobby.

The Bill before us naturally covers all supervision and management of licensed businesses, not just proposed limited club licensees, with due regard to responsible service and harm minimisation. The union which services this industry and the Opposition believe that there is a need to have included in this Bill a requirement to record duty times in order to protect workers, the public and individual responsible persons. The experience of the union has been that since the principal Act came into effect last October the meaning of 'responsible person' can be misunderstood. Before the legislative changes last year, 'responsible person' in the Act would have otherwise been known as a 'manager' or 'licensee' and their name was required to be clearly displayed at the entrance to the premises. The Opposition agrees that a record of duty would assist should an incident occur which requires confirmation as to the responsible person on duty at the time of any incident—someone who is actually a reference point.

We see this issue as very important, particularly as it relates to the sale of liquor to intoxicated people. I think we were all somewhat surprised in the recent legal case where a court awarded a pedestrian $278 000 against a hotel. As I said previously, we do not see this requirement being mandated on limited club licensees given the limited size and scope of their operations, and our proposed amendment reflects this.

We have been advised of numerous instances where young people and female staff, who are usually record free and already approved gaming machine managers, are being utilised in the industry as responsible persons. We recognise the very positive outcomes arising from such arrangements in relation to responsibility and promotion, but it is also necessary to safeguard employees, the public and responsible people from overly onerous responsibility. Accordingly, to uphold the principle of duty of care the Opposition will be proposing an amendment under section 97. The Opposition's proposed amendment provides for mandatory record keeping as to who the responsible person is at any given time other than for holders of limited club licences for which alternative arrangements can be approved under subsection (2).

In conclusion, I think it is fair to say that the small club volunteer industry has clearly made known its objection and belief that the cost of complying with the Act as it stands is unreasonable. The Government's response has been the Bill we have before us on the granting of a limited club licence: an agreement between the club and the licensing authority granted on the conditions outlined in this Bill and, I trust, with the Opposition's amendment.

I have also consulted with the Licensed Clubs Association which has expressed agreement with the Government's Bill. My discussions with interested parties have clearly indicated their pleasure that this amendment Bill establishes a further category of limited licence which caters for those clubs that generally trade only with members and their invited guests and which is not the financial burden the principal Act allowed for. The fee of $11 for the badge which responsible people must wear is not considered onerous. I hope that the Opposition's amendment, which is also about being responsible, receives the support it deserves.

The Hon. IAN GILFILLAN: I indicate Democrat support for this Bill. It is rather amazing that it required the time and the somewhat belated laments from people involved with licensed club premises to make an impact so that this amending piece of legislation came through. It seems almost beyond belief that consideration of the original legislation did not pick up that the smaller enterprises were going to be very embarrassed and stressed over the initiative as it was in the original Act. Having said that, we support the legislation. It is unfortunate in some ways that the association had not been able to make its mark on the Opposition and the Democrats. Certainly, we had not had any presentations from it about the matter earlier. But better late than never; let us get on and amend it now.

The Hon. Carmel Zollo's amendment has prodded me to think particularly about the exposure of young staff to making what can often be an embarrassing and delicate decision not to serve alcohol to a patron. I am not yet convinced that her amendment does substantial good to make a more responsible and more authoritarian person available to the younger and, perhaps, less self-assured staff person just by having those

people recorded on a log. I hope the Committee stages will explore this, but there must be a reasonable opportunity for any front-counter staff to have ready access to a responsible person for support and confirmation of a decision such as the refusal to serve alcohol to an intoxicated patron.

Without indicating either opposition or support for the amendment, I do indicate that it will be my expectation that in the Committee stages we will explore the actual practical implications of this amendment. If I am convinced that it does have a desirable practical effect, then I will be inclined to it, but just to have more paperwork or a record kept for the sake of having names tabulated I do not feel in itself will do much good. With those few remarks I indicate our support for the

The Hon. NICK XENOPHON: I, too, support the Bill and commend the Government for sorting out these anomalies. My brief remarks will largely be confined to the proposed amendment of the Hon. Carmel Zollo which I do support. It seems to me that the Liquor Licensing Act is very much about responsibility and responsible service, and I note that section 3 of the Act speaks in terms of the object of the Act, and I quote:

> . . . to regulate and control the sale, supply and consumption of liquor for the benefit of the community as a whole and, in particular—
>
> (a) to encourage responsible attitudes towards the promotion, sale, supply, consumption and use of liquor. . .

It seems to me that the underlying theme of responsibility will be strengthened by having accountability inherent in the proposed amendment of the Hon. Carmel Zollo. Without having a degree of accountability, the underlying theme of responsibility cannot be properly fulfilled.

I understand that there may be members in this House who are concerned about the proposed amendment leading to onerous requirements on the part of hotels and the like, but I think it is salutary to know what people who work in the industry think. Only a few minutes ago I had the benefit of speaking to a person who has worked in the hotel and gaming industry, and she told me that there is a real problem at a number of hotels where she has worked in terms of determining who is responsible where there is a problem under the Act. Who is responsible to ensure that a problem can be sorted out? She told me:

> You just work it out yourself because you do not know who is responsible on some occasions or you cannot find that person, you did what you thought was right and copped the brunt of it later or a day or two later in some cases.

If there is a requirement to have a log book so that you are aware of who is responsible and that person logs on, the log book can be referred to days later if there is a problem. One can refer back to that date and it will add a fair degree of accountability in the current legislation. To claim that it will be onerous on a hotel to run a log book is absurd. It would take only a few seconds to log on and, given that hotels, particularly with gaming machines, these days seem to have all sorts of paper work to fill out because of all the money they are making, I believe it is a commendable amendment that has been foreshadowed by the Hon. Carmel Zollo. I support the amendment and the Bill.

The Hon. A.J. REDFORD: I support the Bill and I commend my legal colleague's brevity on the subject. The Bill was introduced by the Attorney-General and is a timely response to criticism made of the Liquor Licensing Act 1997 following its commencement in October last year. I do not recall anyone drawing the Attorney-General's or the Parliament's attention to these difficulties when we debated this legislation less than 12 months ago and, from the Attorney's point of view, I have to say that the difficulties were entirely unforeseen. The Act introduced last year was the result of extensive consultation by the Attorney-General with a number of objectives. The Act stressed the responsible service of liquor. In exchange for increasing those responsibilities it extended certain trading rights by some licensees and it imposed a strong regulatory regime to ensure the responsible use of alcohol by the public with responsible service by providers.

The criticism came from two sources. First, the small licensed clubs and, secondly, the wineries and, in particular, their cellar door sales activities. They have urged the point of view that the regulatory demands on them, having regard to their business activities, are unwarranted and unnecessary. The Bill responds to the criticisms in the following ways. First, it establishes a new licence known as a limited club licence and defines limited trading rights for holders of such licences. Secondly, it gives the licensing authority the power to exempt a licensee and approve alternative arrangements for the supervision and management of the business.

In relation to the first of those, the limited club licence, I must welcome the initiative. I have to say it is a pity that the issue was not identified during the consultation period, and certainly in my discussions with the Licensed Clubs Association last year the issue was not identified by it as a representative group. The Attorney has responded in an entirely appropriate way by restricting, in the case of limited club licences, the sale of liquor to only club members or their guests, up to a maximum of five per member and ensures that there is an obligation on the part of the club to advise the licensing authority on a regular basis of the management committee and any changes to that management committee. In the context of a small club licence, I suggest that is entirely adequate and addresses the issue well. I have to say that I have not received any criticisms from any quarter on that aspect.

The second issue relates to cellar door sales and the criticism that arose in that regard. For the benefit of *Hansard* readers, many activities by wineries, particularly cellar door sales, are conducted on a small enterprise basis. I know from personal experience that there are occasions where the owners are expected to attend not only to the horticultural responsibilities during the grape season but they are expected to attend to wine making and promotional activities and at the same time run cellar door sales. Indeed, it is interesting to note from reading the local press in the South-East over the past couple of weeks that some smaller wineries are closing on weekends, not because of any regulatory imposition but because of the huge increasing demand for stock. In fact, two wineries at Coonawarra have announced that they no longer have any red wine to sell until the next vintage and, in one case, they are using what they describe as cellar stock to satisfy public demand. From the industry point of view that is terrific: it is terrific for the industry; it is terrific for the community and it is terrific for the employment created. I also know that the nature of the cellar door sales operation in most if not all cases is not driven in terms of its success by encouraging people to drink wine on the premises.

Invariably it is the practice in South Australia that people who consume alcohol at cellar door sales are provided that alcohol as a free sample, if you like, as a form of inducement to encourage people to buy packaged liquor. There is a

commercial imperative on the part of people running cellar door sales operations not to encourage the abuse of consumption of liquor. Therefore, it seems to me that a regulatory regime in relation to the responsible consumption of alcohol through cellar door sales is not as necessary as one would expect in, say, the hotel, wine bar or restaurant industries, etc., because there is no commercial value in it. The commercial value is the encouragement of the sale of packaged liquor. I know from personal experience that, if you attend a winery and if you do not look like you are going to buy any packaged liquor, the samples get smaller and smaller and, after not much time, they tend to disappear. In that context it is my view that the regulatory regime where we have to have authorised people on the premises at all times is unnecessary because of that commercial imperative. I note that the Liquor Licensing Commissioner is given a power to exempt. New section 97(2) provides:

> If the licensing authority is satisfied on the application of the licensee that, in view of the limited scope of a business conducted under a licence, an exemption from the requirements of subsection (1)(a) may be granted without compromising the responsible service and consumption principles, the licensing authority may approve alternative arrangements for the supervision and management of the business.

I am not sure exactly what is meant by the term 'limited scope of the business'. I hope that in looking at the meaning of those words the Commissioner will look at the limited scope of the business in terms of the nature of the business—in other words, the business is specifically related to cellar door sales and the nature of the business is giving away limited amounts of free samples rather than looking at the extent of the turnover or whatever.

From my experience, as one travels around South Australia and its different regions—Clare, Barossa Valley, McLaren Vale (one of my favourite areas), Coonawarra, and the newly emerging areas of Coppamurra and Kingston—one sees many substantial enterprises that have small cellar door outlets. I hope that those larger companies that have the wherewithal and the courage to invest in a diverse range of regions throughout South Australia are not prejudiced simply because they happen to be a large company.

If one looks at the operations of Wynns one will see that it has outlets in various regions. It is a substantial company. It is part of the Southcorp group, and no-one would describe Southcorp as being a limited business. But the nature of the business conducted under the specific licence, I suggest, albeit by a substantial company, would fall within the term 'limited scope of the business' and enable the licensing authority to seriously consider an application for an exemption under that section.

I invite the Attorney-General to provide some guidelines that can be communicated to the industry as to what sorts of applications might be successful in those circumstances having regard to the fact that it is the Government's intention not to unduly restrict the licensing authority's discretion. I would be disappointed if we had to revisit this legislation because the Commissioner took an unduly restrictive view as to how he would exercise his discretion pursuant to new section 97(2). The Attorney would be aware that I have written to him and the Treasurer in relation to the way in which a discretion has been exercised. I am not making any criticism whatsoever, but the discretion was exercised in relation to the remission of fees under the Liquor Licensing Act in circumstances which, on the face of it, appear most unjust, but I will not go into the details of that now.

My only caveat in relation to this legislation is that we do get some reasonable guidelines from the licensing authority so that cellar door sales throughout South Australia, which is an important part of both the wine and regional tourism industries, can go forth in the near future with some degree of confidence as to how they conduct their business. With that caveat, I commend the Bill to the Chamber and congratulate the Attorney-General not only for the timely way in which he responded to the criticisms made following the operation of this Act in October last year but also for the manner in which he has dealt with the Liquor Licensing Act 1997 and on the difficult task he has had in setting up a whole new regime of regulations and the like associated with that Act.

The Hon. K.T. GRIFFIN (Minister for Justice): I thank members for their indications of support for this Bill. Having come into effect in October 1997, I would have preferred that no changes be made to the new Act until we had given it about a year or so to work in practice, but it became obvious that there were some issues affecting small clubs that needed to be addressed. The amendments which are before us are the basis upon which we believe we will adequately deal with the issue of clubs. I have a number of letters from licensed clubs—including the RSL and the Bowls Association—all of which say that they agree with the amendments and commend us for moving in that direction. I do not think that there will be any difficulty with the way in which clubs' licensing will be dealt with under this Bill.

The Hon. Carmel Zollo is proposing an amendment and we can deal with it in more detail, but I will put a few observations on the record so that she might think about them overnight—and I would hope that Mr Xenophon might think about them overnight—and then we can make a judgment about the desirability of the amendment. A legislative requirement that licensees keep a record of who is on duty as the responsible person at any time or, where an exemption is being granted under section 97(2), keep records as required by the licensing authority is onerous and unnecessary. Essentially, it should be an administrative decision that each licensee is able to make of his or her own accord, depending upon whether or not it is appropriate for the nature and scope of that particular business.

I make the following points. First, the basic principle behind the responsible person requirement is that there be a responsible person on duty at all times that the licensed premises are open to the public and that that person must be identifiable, that is, wearing an ID badge. The reason for this is so that if a member of the public or authorised officer, that is, an inspector or a police officer, wants to speak to the person in charge that person will be there and easily identified. So they have to wear the badge.

The Hon. Carmel Zollo interjecting:

The Hon. K.T. GRIFFIN: There will only be one responsible person, and that responsible person on duty will be wearing the badge, which is issued by the licensing authority.

The Hon. Carmel Zollo interjecting:

The Hon. K.T. GRIFFIN: We can deal with that issue, but the requirement of the Act is for one person to be identified as the responsible person. If there is a minor drinking in the bar, the police officer who detects it can identify immediately, 'You're the responsible person. What's happening here?' Of course, it is always possible for the responsible person to say, 'I'm not the licensee, I'm only the

responsible person,' but the Act says, 'You are the responsible person. You are responsible for what goes on in the management of the liquor side of the business.'

The second point I make is that the whole purpose behind the amendment Bill is to lighten the load on smaller licensees, to provide relief for small clubs and small licensees generally where this can be done in accordance with the basic objects of the Act. To enact the amendment Bill to lighten the load but then to turn around and say that an additional legislative requirement is to be imposed on licensees to keep records in respect of responsible persons is contrary to the whole reason why the amendment Bill has been introduced.

I must say that this was an issue that we discussed at a recent working group meeting, and I can say that none of the representatives of licensees across the industry supported this proposal, because they said, 'Look; it is a management decision whether or not we keep that register.' As far as the Act is concerned, there is a badge, and the responsible person is approved and has to be identified if on duty.

The third point is that the fact that no legislative requirement is imposed on licensees to keep a record of the responsible person on duty certainly does not prevent them from being able to take such action. It is an administrative decision, and each licensee should be able to decide whether such action is appropriate for his or her operation. A two-partner operation—for example, husband and wife where one or the other partner is always on the premises—may not consider it necessary to keep a record in a form prescribed by the Commissioner. A large hotel or bottle shop chain, however, may consider that this is a good idea for their operation. It is an administrative decision, and each licensee should be free to make the choice as to whether to keep the record and whether it is necessary for their operation and the form which it should take.

So, there are concerns about the amendment. Having put that on the record, I hope that members will now consider whether it should be supported on the basis that it is an extra regulatory requirement which in the view of the Government is an unnecessarily additional administrative requirement.

I now turn to the issue raised by the Hon. Angus Redford. Cellar door sales is a live issue. Last week a meeting was held between the working group and me. The working group comprises representatives of the Australian Hotels Association, the Licensed Clubs Association, retail liquor merchants, the South Australian Wine and Brandy Producers, the Restaurateurs Association, the Drug and Alcohol Services Council, the Liquor and Gaming Commissioner, the Drug, Alcohol and Crime Working Party and also the Aboriginal Alcohol Abuse Council. So, it is a very representative cross-section.

Members who were not here when this Bill was being debated must realise that, when we debated it last year, I indicated that the Bill resulted from my sitting down with all these people together and trying to get a balance. Not everybody got everything they wanted, and some conceded things to which in other circumstances they might have resisted another branch of the industry gaining access. However, the community and all the liquor industry got some benefits from the amendments to the whole liquor licensing system.

I reiterated that at the working group last week because, whilst there are concerns about cellar door sales and the pressures on small operators (and that incidentally is the reason why we have the exempting provision in the Bill), there is nevertheless a concern that there be a level playing field. I can indicate that, if we cannot resolve this satisfactorily in the interests of the whole industry and give benefits to the cellar door sales area, there will be a great deal of agitation from other areas of the industry to have equal relaxation. That is not something which I think we as a Parliament ought to tolerate, because we have tried to get a balance. It is in the interests of the whole community that we endeavour to maintain that balance.

At the working group meeting last Thursday, 12 February, Ms Linda Bowes of the South Australian Wine and Brandy Association was given an opportunity to outline to the members of the working group her proposal for the approval of responsible persons employed by producer licensees and the bases upon which she opposed police and credit checks for responsible persons employed in the industry. Her concern was the police and credit checks for an applicant to be a responsible person. There was no concern about a person's having to be approved, but her members were concerned about the police check, which the proprietors and managers go through and also with respect to the rest of the liquor industry—except in clubs where a special provision applies—where some responsible persons will go through police and credit checks. In every other part of the industry, responsible persons must go through credit checks.

It is important to recognise that Ms Bowes' views were not shared by any other members of that working group, who generally indicated that they believed that the new Act was working well. The majority of the members of the working group expressed support for the Liquor Licensing Act and the proposed amendments as they currently stand. It was made clear by the working group members that, should special consideration be made for producers with respect to the approval of responsible persons, other areas of the liquor industry would be unhappy if the same benefits were not extended to them, as it was considered that the wine industry could not be distinguished from other areas of the liquor industry in that regard. Therefore, any concessions to the wine industry as to the standards to be met for approval as a responsible person would have to apply across the board, which would place under threat the basic harm minimisation and responsible service and consumption principles of the Liquor Licensing Act.

I indicated that I would consider some means by which we could at least partly satisfy the concerns of Ms Bowes and some of her members, but I indicated that I did not think it would easy to do it. However, I indicated that I would try to give some consideration to it. As the Hon. Angus Redford raised this issue, I am happy to endeavour to give to members some information which might help to identify the guidelines by which exemptions might be made. That will not be easy, but at the working group committee meeting last week the Liquor and Gaming Commissioner gave some examples of the circumstances in which he would grant exemptions. They apply not just to small wineries where you might have very limited cellar door sales and a small staff but also to hotels out there in the bush, where a husband and wife are running a pub and both suddenly find they must come to the city and no-one has been formally approved as a responsible person. The application can go in a fax to the Liquor Licensing Commissioner and it will be dealt with instantaneously if it is of such urgency.

So, flexibility is built into this provision, which I have endeavoured to persuade the wine industry representatives should be given an opportunity to settle down and, if there are real concerns with it, let us have another go at it after we have

established that there are problems. I personally do not think there will be the sort of problems that are presently being raised as concerns by the wine and brandy industry, but I am prepared to keep an open mind on that.

I thank members for their support of the second reading. I indicate that we will deal with the Committee consideration probably tomorrow or Thursday, by which time I hope to be able to answer the questions which I have not been able to answer in this reply.

Bill read a second time.

PUBLIC SECTOR MANAGEMENT (INCOMPATIBLE PUBLIC OFFICES) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 275).

The Hon. K.T. GRIFFIN (Minister for Justice): I thank members for their indications of support for the Bill. The Hon. Mr Holloway raised several issues. He asked what was meant by a 'targeted review' of public offices, which was my reference in the second reading report. There is nothing sinister in a targeted review. It is looking at each of the offices where there may be incompatibility, with a view to resolving any incompatibility, if necessary by Governor's directions. One could say that there is a review. 'Targeted review' was meant to indicate that we would be focusing upon offices and looking specifically at issues with a view to identifying where an issue had to be addressed in the context of this Bill.

The Hon. Paul Holloway indicated, and has on file, an amendment. We will debate this more in Committee, but I put to him that the amendment is effectively a negation of the Bill because, if one looks at proposed section 70A(2) we see that:

> The Governor may give directions in relation to an actual or potential conflict of duty and duty between offices held concurrently, or in relation to some other incompatibility between offices held concurrently, and, if the office-holder concerned complies with those directions, he or she is excused from any breach that would otherwise have occurred.

The honourable member's amendment seeks to focus on a public sector employee who may be appointed as a member of a statutory body and say that that person, notwithstanding that there is an incompatibility, may not be given directions by the Governor as to the exercise of a discretion or power as a member of the body. If that is the case it may be that, if the amendment is carried, the directions would have to be given to the public sector employee in relation to the non-statutory office position which that employee holds and which I suggest might be more offensive because it would relate to duties under the Public Sector Management Act.

I do not believe that we can avoid in some circumstances the Governor's giving directions to a public sector employee on a statutory body about the way in which that person may or may not exercise his or her duty as a member of the statutory body. The whole object of giving the direction is to excuse the public sector employee from any breach that would otherwise have occurred and the consequences of that breach.

Whilst we are trying to be positive in relation to a public sector employee holding incompatible offices where there is a conflict of duty, the amendment tends to pull back from the sorts of protections that we are seeking to give. That is the concern I have with the amendment. I will not support it in Committee because it is contrary to the interests we are trying to serve and the objective we are trying to achieve in the Bill before us.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. P. HOLLOWAY: I move:

> Page 1, after line 29—Insert subclauses as follows:
>
> (2a) However, a public sector employee appointed as a member of a statutory body may not be given directions by the Governor, a Minister or any other person as to the exercise of a discretion or power as a member of the body.
>
> (2b) Subsection (2a) does not affect any power to give directions to a statutory body (rather than its members) conferred under some other Act.

What the amendment seeks to do is simple enough, but as the Attorney-General pointed out it is perhaps more complex in operation than in principle. All of us would agree that we would not want any public servant to be disadvantaged or at any risk of legal action as a result of that public servant's holding an additional office such as a position on a statutory board. I was seeking with the amendment to take the spirit of the Auditor-General's Report a little further than the Bill had originally taken it and clarify the position of the public servant who has been appointed to a statutory board.

The amendment provides that the public sector employee may not be given directions by the Governor, a Minister or any other person as to the exercise of a discretion or power as a member of the body. The next part of the new clause would say that the subsection does not affect any power to give directions to a statutory body rather than its members referred to under some other Act.

The Labor Party would certainly agree that there should be ministerial powers to direct the board, and that has been used on a number of occasions in the past and, generally speaking, appropriately so. I was concerned about a situation where we might have two classes of directors, where a public servant might be told as a public servant to vote in a particular way on a board rather than that direction being giving to the board as a whole. The Minister might seek to achieve a result by that method rather than the more overt method of directing the body as a whole.

I concede that one of the problems in this area is the large number of different boards that are in existence. Some boards can deal with millions or billions of dollars of taxpayers' money or may be relatively small boards. On some boards it might be expected that the public servant would act as a conduit for the Minister's views. It makes it somewhat difficult in trying to grapple with the issue that we have such a huge range of boards with different objectives and nature. Perhaps it would be good if a somewhat more thorough review of this whole issue could be undertaken.

In his second reading speech the Hon. Angus Redford, if I took correctly the point he was making, was suggesting that something like the Statutory Authorities Review Committee should look at some of these issues. I think we should be concerned to protect any public servant from any improper action where they might be under pressure, say, from a Minister, who I think would be the most likely source.

The Hon. K.T. Griffin: The Governor gives a direction on behalf of the Minister. It's not an *ad hoc* informal ministerial direction; it's got to be much more formal than that.

The Hon. P. HOLLOWAY: The Minister may correct me if I am wrong, but I would not think there would be too

many occasions where a Minister would give a directive to a public servant to vote in a particular way on a board. I think the normal way would be that the Minister would deal with the chair of a board and direct accordingly. However, I am sure that there would be many occasions, particularly in respect of some sorts of boards, where Ministers would expect a public servant to report to them—and appropriately so.

I do not think that the situation envisaged by this clause would apply often, if ever, but I think the presence of this clause would give a public servant some comfort if that public servant were given a directive to act in a way that he might consider was improper or would put the financial position of a corporation at risk. Rather than being put under pressure to behave in a particular way as an individual, my intention with this amendment is to ensure that any such directions go to the board as a whole so that it would have to act in a collegiate fashion rather than on an individual basis.

The Hon. Ian Gilfillan: The board could then give a direction to a particular person.

The Hon. P. HOLLOWAY: I would think so. The intention behind my amendment is that any directions that a Minister might give should be made publicly and overtly to the board as a whole and not to an individual by virtue of their position as a public servant. The Attorney raised some arguments in his second reading reply that this may conflict with the provisions of subclause (2). I would like to give a little more thought to this matter. We are dealing with a difficult area, because we are trying to cover many different types of boards and situations that may exist. When one moves amendments to these sorts of clauses, one must be careful that they do not create anomalies, especially when addressing an area as broad as this.

The Hon. K.T. GRIFFIN: I indicated in my second reading reply that I would oppose the amendment for the reasons I outlined. It is a difficult area, and it took a number of months for the Crown Solicitor, the Solicitor-General and my legal officers to come up with this proposition which we thought properly addressed the Auditor-General's criticisms in his report last year. I come back to the point that I made earlier: if it were enacted, this amendment would compromise what we are trying to do. As I indicated by way of interjection, it is not the Minister who gives instructions but the Governor acting on the advice of his Minister. This means that the whole of the Cabinet is involved in making a recommendation to the Governor. It is not left to one Minister to deliver a direction at his or her whim.

In terms of statutory authorities, there are some statutory authorities where a chief executive officer might be a member but the Minister responsible for the department might also be the Minister to whom that statutory body is accountable. In those circumstances, there may be the sorts of conflicts that we are trying to deal with. It may be that we will resolve them ultimately only by way of direction from the Governor to the chief executive officer: for example, 'On these sorts of matters you are not to vote' or 'On these sorts of matters you are to vote in a particular way which avoids the conflict between your duty as a chief executive officer and your duty as a member of the board.' This can be addressed in a whole range of ways. I suggest that we ought to pass the Bill as it is and reject the amendment, because we are trying to put in place a mechanism which will protect those who hold two or more offices in the public sector and by which we can resolve the dilemma raised by the Auditor-General.

The Hon. IAN GILFILLAN: I have not read the Auditor-General's observations which apparently triggered this legislation. I am sure that that is a disadvantage, but in some ways it is an advantage because I am looking at the legislation in its purest form. An office is obviously not restricted to being a member of a statutory authority: it is a public office or any position of employment in the public sector. The implication of this is quite obscure to me. Although both the Hon. Mr Holloway and the Hon. Trevor Griffin have attempted to put forward some real implications on how it would work, I am still uncertain as to how narrow or wide the implications of this Bill would be. It may not necessarily refer to a member of a statutory body but there may be a perceived incomparability between two particular positions. They may only be part-time, and I am only conjecturing, but if the Bill is taken literally with the current wording that may well be the case.

In those circumstances I feel that I need further discussion and analysis of that rather vague and indeterminate area and I also need to distinguish between the Attorney-General's position and the Hon. Paul Holloway's amendment. I take at face value the sincerity of both members to do their best to overcome a problem foreseen by the Auditor-General. I indicate to the Attorney that I would be much happier if we adjourned the Committee to allow for some informal discussion or further briefing before I will be in a position to vote on it.

The Hon. K.T. GRIFFIN: I am always happy to try to oblige my colleagues in order to facilitate the legislative process. If necessary, I will seek to report progress. I pick up the point of the Hon. Mr Gilfillan. It is correct that this clause relates not just to a public office in the Public Service and the membership of a statutory authority. It can be two offices within the public sector which are not related to a statutory authority.

I agree it is obscure, and that is partly the reason why it took some time to get to the final draft which is now in the Bill. It may be that even after an adjournment we are not able to satisfy the honourable member and he may have to fly blind, but I am happy to move that progress be reported.

Progress reported; Committee to sit again.

LEGAL PRACTITIONERS (QUALIFICATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 December. Page 195.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports this legislation. This Bill seeks to establish a single representative body (the Legal Practitioners Education and Admission Council) to determine the academic and practical requirements for admission to legal practice, as well as to ensure the provision of post-admission practice legal training. I understand the changes largely follow recommendations made in 1995 by the Supreme Court judges and the Admissions Procedures Review Committee set up by the Chief Justice in May 1996. The Opposition supports the new structure and the modernisation, if you like, of the admissions process. I support the second reading.

The Hon. IAN GILFILLAN: I indicate the Democrats' support for the second reading of the Bill. I had communication with some student representatives from the profession

who indicated that they felt there would be a justification for there being two student representatives on the council, one from Flinders University and one from Adelaide University. They, like me, were at a loss to understand why they were not able to have a vote. I would be interested to hear argument if there were to be two representatives, but certainly, if there is only one, why that person does not have a vote. Numerically it is hardly overwhelming. It looks like the total number must be about 10 or thereabouts. I would regard that as most inappropriate, and I also indicate my opposition to the quorum which was reflected by an amendment filed by the Attorney-General that the presence of the student will have no influence on determining whether or not there is a quorum. I hope we will address that matter in the Committee stages.

The Hon. K.T. GRIFFIN (Minister for Justice): I thank members for their support. I have a number of amendments which are largely of a technical nature and which can be dealt with in Committee. In respect of the matters raised by the Hon. Mr Gilfillan, the student representative was felt to be appropriately of a status of observer and participant in the same breath but not a voting member for a couple of reasons. First, this Bill relates to professional practice: it does not relate to university study. It relates to professional practice and the criteria for admission to practice. It was generally felt, although the view had been put to me that the Hon. Mr Gilfillan reflects, that in the broad consultation process it was inappropriate that a student with no experience of practising professional life, from a perspective of inexperience should cast a vote on something which affects professional practice and which is five years down the track from the commencement of a degree at one of the universities.

There was consideration given to a student representative from each of the two university law schools, but it was determined that one would be appropriate with a view to some alternation. The concern was: where does one stop? One can put on two. Do you then add additional representatives from different parts of the legal professional community? We have already cut back the numbers. There was a view that we ought to have more judges, and I took the view that was inappropriate. It is really a matter of balance. As I say, I have taken the view, after consultation, that the structure of the council as in the Bill is appropriate, that the student member has input but is not able ultimately to vote upon the major decisions relating to professional practice. That is the rationale for it.

Bill read a second time.

STATUTES AMENDMENT (CONSUMER AFFAIRS) BILL

Adjourned debate on second reading.

(Continued from 10 December. Page 198.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports this Bill. As the Attorney-General has indicated in his second reading speech, this Bill proposes amendments to various pieces of legislation in the consumer affairs portfolio. They are mostly minor and largely concerned with bringing about some consistency in licensing. We accept that some of the other amendments are to assist with the uniformity of administration for the Office of Consumer and Business Affairs. These changes tidy up some anomalies, inconsistencies and oversights following from the review of all consumer affairs legislation that has been undertaken over the past three years. We support the second reading.

The Hon. IAN GILFILLAN: The Democrats will be supporting the second reading of the Bill. It is an omnibus Bill and one which is rather daunting to assess in depth. It would require relating quite a range of matters to the principal Acts. However, in looking a little more closely at the Attorney-General's second reading speech, I find sympathy with what are reasonable explanations of the very wide range of matters that the Bill seeks to redress and I look forward to the opportunity for some constructive discussion in the Committee stages. We support the second reading.

The Hon. K.T. GRIFFIN (Minister for Justice): I thank members for their support. I have some amendments of which notice has been given to members but we will deal with those in Committee.

Bill read a second time.

INTERNATIONAL TRANSFER OF PRISONERS (SOUTH AUSTRALIA) BILL

Adjourned debate on second reading.

(Continued from 10 December. Page 199.)

The Hon. T.G. ROBERTS: The Opposition supports the Commonwealth initiative and supports the mechanics within the Bill to cooperate with the Federal scheme. The Commonwealth has been looking at this issue for some time. The scheme could not be initiated by the States because there are a number of Commonwealth initiatives that need to be taken for the States to comply with this measure. The Commonwealth needs the States to have mirror legislation that allows them to have a scheme to cover prisoners who might want to go from international prisons to State-run prisons. The agreements that have been foreshadowed would set up prisoner exchanges with other countries based on humanitarian reasons.

The Commonwealth standing committees have been into that and are assuring everyone who has read their reports that these agreements are for humanitarian reasons. I refer to the deprivation of liberty in a foreign country, the absence of contact with friends and relatives and other barriers such as language barriers to counselling. All these can prevent rehabilitation. Also, as we have seen exposed in some drug cases, incarcerations in prisons in Thailand and Malaysia where differences in diet and culture can impose an added pressure on the sentencing procedures in those countries.

Although it is not mentioned in any of the reasons I have read, a whole range of corrupt practices exist in some countries, which I will not name now, but they make it very difficult for prisoners who cannot access foreign currencies in order to trade benefits in such prisons. I must say that in Australian prisons there are practices where legal tender may not be the currency but there are ways in which benefits can be bought by whatever currency is used in a prison. I refer to the effect of alienation of prisoners with different backgrounds, religions and culture. This all makes it difficult in many countries for rehabilitation programs to be tailored. Similarly, for someone in an Australian prison with a different culture, especially if they do not have the language, it can be very difficult as well. They are some of the humanitarian reasons why the Commonwealth standing committee

found it would be of some benefit to prisoners for such exchanges to apply.

There are also community aspects, as I mentioned earlier, of tolerance and support that come into play. The arguments put against exchanges include that it would weaken the integrity of the penal system and undermine the effort to fight serious crime. If there were no exchanges, then for people travelling into countries where prison systems are extremely difficult in relation to rehabilitation and just survival, it would not be a high enough deterrent for people not to break the laws in those countries. If there were no transfer of prisoners, it would act as a greater deterrent for people of different nationalities to breach the laws of that country. That appears to be an argument that has some merit.

However, the standing committee has come down on the side of the agreements for humanitarian reasons. The Commonwealth will have to administer the scheme and will have to negotiate the treaties for prisoner exchange. The Commonwealth will also have to provide administrative structures for transfers and regulate the status of prisoners. It will then be up to the States to pass the necessary legislation, which includes the Bill before us, to allow for complementary legislation from the States to enable the Commonwealth to get on with its responsibilities. For those humanitarian and rehabilitation reasons the South Australian Government wants to support and participate in this measure. The Opposition wants to support those admirable intentions and so we support the Bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank the honourable member for his indications of support. This is an important piece of legislation but it is important also to remember that this is a Bill where ultimately the receiving State maintains the ultimate control. Perhaps in the face of public controversy that might be difficult to resist but, nevertheless, the receiving State retains ultimate authority to say 'No'.

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

ADJOURNMENT

At 6.35 p.m. the Council adjourned until Wednesday 18 February at 2.15 p.m.