LEGISLATIVE COUNCIL

Tuesday 2 June 1998

The PRESIDENT (Hon. J.C. Irwin) took the Chair at 2 p.m. and read prayers.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on notice be distributed and printed in *Hansard:* Nos 58, 97, 107, 110 and 112.

FORESTRY, CONTRACTING OPERATORS

58. **The Hon. R.R. ROBERTS:**

1. Can the Minister for Primary Industries, Natural Resources and Regional Development detail what type of forest work will use contracting operators?

2. What will be the cost of this contracting work?

The Hon. K.T. GRIFFIN: The Minister for Government Enterprises has provided the following, in response to the honourable member's question. I advise that the following information has been extracted from the operating budgets for 1997-98.

After seven months of the financial year it is anticipated that these levels of expenditure will be accurate.

Forest Protection

Total cost of contracted work is $132 050.

This includes components of firebreak maintenance, fire protection, noxious weed control programs and Sirex control.

Plantation Establishment

Total cost of contracted work is $746 600.

Included are contract costs associated with aspects of the preparation of planting sites and the planting operations.

Plantation Maintenance

Total cost of contracted work is $677 290.

All contracting costs related to maintenance of plantations and silvicultural initiatives directed to improved forest output are included. They comprise competition control, fertiliser application, spacing and pruning programs.

Forest Resource Management

Total cost of contracted work is $310 000.

This includes components of the Yield Regulation System plus initiatives in forest plot measurement data collection.

Administration and Information Systems

Total cost of contracted work is $672 820.

Implementation of CA Masterpiece and various contracts associated with building maintenance and cleaning.

Community Forestry

Total cost of contracted work is $150 000.

This cost includes the provision of public information services, walking trails, fencing and educational materials.

Delivery of Logs to Customers

Total cost of contracted work is $17 140 500.

This comprises harvesting and transport costs paid out to logging contractors and recouped from customers on a cost recovery basis.

It does not include log products purchased by Forestry SA from other forest owners that are produced by logging contractors responsible to those forest owners.

SPEEDING FINES

97. **The Hon. T.G. CAMERON:** How many people caught speeding by a speed camera and subsequently sent a photograph were found to be not guilty for the years:

(a) 1994-95;

(b) 1995-96; and

(c) 1996-97?

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised by the police that photographs are issued upon request by the motorist to South Australia Police. Photographs are checked before sending to the requesting motorist.

Any which are found to have been incorrectly issued during that process are withdrawn and the motorist advised accordingly. Statistics are not specifically maintained in relation to motorists who apply for a photograph and are subsequently found to be not guilty.

SUMMARY PROCEDURES

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

1. What is the procedure for laying a complaint by the police as per section 49 of the Summary Procedure Act 1921?

2. Is it common for the police officer laying the complaint not to personally endorse with a signature the complaint made by him or herself before a justice of the peace?

3. How many judgments have been dismissed due to inconsistencies in laying complaints for the year 1996-97?

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has provided the following response.

The Police advise that:

1. The procedure for laying a complaint by the police as per section 9 of the Summary Procedure Act 1921 is as follows.

Once the complaint (form 1, form 2 or form 3 *vide* the Summary Procedure Act) has been produced by the Document Preparation Unit (a unit within the Prosecution Services Division of SAPOL) it is given to a nominated police officer attached to Prosecution Services Division who, having applied his/her mind to the contents of complaint, affixes his/her signature by hand or rubber stamp to the complaint. This officer then lays and, where appropriate, swears the complaint before a Justice of the Peace. The complaint is subsequently filed with the Registry of the Magistrates Court in which the matter is to be heard.

2. It is now common practice for a police officer laying a complaint to personally endorse that complaint with his/her signature. This endorsement may be by way of an impression of a stamp bearing a facsimile of the signature of the complainant, or by way of a handwritten signature.

Prior to August 1997, a procedure was being adopted whereby some complaints (mainly in relation to minor traffic matters) had the signature of the nominated police complainant printed upon it at the time of generation by a computer. This practice ceased after it was challenged in the Adelaide Magistrates Court.

3. Recording systems within SAPOL do not enable information to be provided about how many cases have been dismissed due to inconsistencies in laying complaints for the year 1996-97.

SPEED CAMERAS

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

1. How many speed cameras did the South Australian Police and/or the Police Security Services Division have in operation during the years—

(a) 1994/95;

(b) 1995-96;

(c) 1996-97; and

(d) 1997-98?

2. How much will each of the new speed cameras cost to buy?

The Hon. DIANA LAIDLAW: The Minister for Police, Correctional Services and Emergency Services has been advised by the police as follows:

1. (a) 13
   (b) 13
   (c) 14
   (d) 14

2. Probity prevents the disclosure of any details relating to the speed camera replacement tender.

RESTRICTION NOTICES

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

1. How many notices of restriction were sent out by ETSA and SA Water for the years—

(a) 1994-95;

(b) 1995-96; and

(c) 1996-97?

2. How many customers were charged a reconnection fee by ETSA and SA Water for the years—

(a) 1994-95;

(b) 1995-96; and

(c) 1996-97?

3. How much revenue was collected by ETSA and SA Water as a result for the years—

(a) 1994-95;

(b) 1995-96; and

(c) 1996-97?

The Hon. DIANA LAIDLAW: The Minister for Government Enterprises has provided the following information.

1.	SA Water	ETSA
1994-95	94 247#	373 833*
1995-96	115 448#	380 366*
1996-97	119 515#	385 652*

\# SA Water figures refer to a 'Restriction Notice'—a notice of intention to restrict if the account remains unpaid, as the final stage of the computerised billing recovery cycle.

* ETSA figures refer to the number of notices issued, warning of disconnection of supply if account payment is not received.

2.	SA Water	ETSA
1994-95	2 891	information not available
1995-96	2 819	9 208
1996-97	2 719	8 394

3.	SA Water	ETSA
1994-95	$677 000	information not available
1995-96	$626 000	$193 369
1996-97	$637 000	$176 283

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Regulations under the following Acts—

Education Act 1972—Materials and Service Charges
Fees Regulation Act 1927—Appointment Fees
Gaming Machines Act 1997—Fees
Land Tax Act 1936—Fees
Petroleum Products Regulation Act 1995—Fees
Tobacco Products Regulation Act 1997—Licence Fee

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

Regulations under the following Acts—

Associations Incorporation Act 1985—Fees
Bills of Sale Act 1886—Fees
Business Names Act 1996—Fees
Community Titles Act 1996—Fees
Cremation Act 1891—Cremation Permit Fee
Criminal Law (Sentencing) Act 1988—Reminder Notice Fees
District Court Act 1991—Fees
Environment, Resources and Development Court Act 1993—
Fees in General Jurisdiction
Native Title Fees
Liquor Licensing Act 1997—Fees
Magistrates Court Act 1991—Fees
Mines and Works Inspection Act 1920—Fees
Mining Act 1971—Fees
Opal Mining Act 1995—Fees
Petroleum Act 1940—Fees
Petroleum (Submerged Lands) Act 1982—Fees
Real Property Act 1886—
Fees
Land Division Fees
Registration of Deeds Act 1935—Fees
Roads (Opening and Closing) Act 1991—Fees
Seeds Act 1979—Seed Analysis Fees
Sexual Reassignment Act 1988—Registration of Certificate Fees
Sheriff's Act 1978—Fees
State Records Act 1997—Fees
Strata Titles Act 1988—Fees Payable to Registrar-General
Supreme Court Act 1935—
Fees
Probate Fees
Valuation of Land Act 1971—Fees and Allowances
Worker's Liens Act 1893—Fees
Youth Court Act 1993—Fees

Other—

Summary Offences Act 1953—Dangerous Area Declarations
Summary Offences Act 1953—Road Block Establishment Authorisations

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

Regulations under the following Acts—

Births, Deaths and Marriages Act 1996—Fees
Building Work Contractors Act 1995—Fees
Building Work Contractors Act 1995—Notification of Change
Conveyancers Act 1994—
Consumer Affairs
Fees
Land Agents Act 1994—
Consumer Affairs
Fees
Land Valuers Act 1994—Qualifications
Plumbers, Gas Fitters and Electricians Act 1995—
Fees
Notification of Changes
Retirement Villages Act 1987—Offence
Second-hand Vehicle Dealers Act 1995—
Fees
Penalties
Security and Investigation Agents Act 1995—Fees
Trade Measurement Administration Act 1993—Fees and Charges
Travel Agents Act 1986—
Licence and Annual Fees
Notification of Changes

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

Regulation under the following Act—

Firearms Act 1977—Fees

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

South Australian Council on Reproductive Technology—Report 1997

Regulations under the following Acts—

Adoption Act 1988—Fees
Botanic Gardens and State Herbarium Act 1978—General Fees
Controlled Substances Act 1984—
General Fees
Pesticide Fees
Poisons Fees
Development Act 1993—Private Certifiers—Fees
Environment Protection Act 1993—
Beverage and Container Fees
Fees and Levy
Harbors and Navigation Act 1993—Fees
Motor Vehicles Act 1959—
Expiation Fees
Prescribed Fees
National Parks and Wildlife Act 1972—
Hunting Fees
Permit Fees
Occupational Therapists Act 1974—Fees
Passenger Transport Act 1994—General Fees
Pastoral land Management and Conservation Act 1989—Fees
Public and Environmental Health Act 1987—Waste Control Fees
Radiation Protection and Control Act 1982—Fees
Road Traffic Act 1961—Fees
South Australian Health Commission Act 1976—
Compensable and Non-Medicate Patient Fees
Private Hospital Fees
Water Resources Act 1997—Fees.

CHILD CARE

The Hon. R.I. LUCAS (Treasurer): I lay on the table a copy of a ministerial statement made today by the Premier in another place on the subject of child care and the Premier's Community Fund.

QUESTION TIME

MOTOR ACCIDENT COMMISSION

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Treasurer a question regarding proposed changes to Motor Accident Commission compensation claims.

Leave granted.

The Hon. CAROLYN PICKLES: In March this year the Treasurer in a written reply to a question asked in February stated:

> It is customary at this time of the year for the Motor Accident Commission to consider the required level of premiums for the next financial year. Any recommendation by the Motor Accident Commission is a decision for its board, and the recommendation is made to the independent Third Party Premiums Committee for a determination which is provided to the Minister for Transport. As the TPPC is an independent body, it is not considered appropriate for the Treasurer to speculate on the likely outcome of its deliberations.

There certainly has been some speculation. In an article in the *Advertiser* this morning, in response to moves by the Government, statements were attributed to a spokeswoman for the Plaintiff Lawyers Association (Ms Angela Bentley) that charges would decimate 90 per cent of claims for pain and suffering. The Law Society President (Mr John Harley) described the planned cuts to payouts as outrageous and underhand. He said:

> This is a sneaky attempt to limit the entitlements of those unfortunate enough to be injured in a motor vehicle accident as a result of someone else's negligence. Those who have been badly injured have no pressure group to fight the Government's mean-spirited and heartless move.

My questions are:

1. Will the Treasurer accept that his threat of a 12.9 per cent rise in premiums is entirely inappropriate, even by his own standards?

2. Is this development intended to improve the commercial attractiveness of the Motor Accident Commission in preparation for its sale?

The Hon. R.I. LUCAS: In response to the second question, the answer is 'No.' The Government has not taken a decision to sell the Motor Accident Commission.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: No, the Government has not taken a decision and it would be incorrect for the honourable member to suggest that the Government is going to, because the Government has made no such decision to sell the Motor Accident Commission. Indeed, even the Victorian Government, which has not been averse to the sale of public assets, has decided not to proceed with the sale of its equivalent of the Motor Accident Commission. Any member who is foolish enough to assume that the Government has taken a decision to sell the Motor Accident Commission is incorrect.

In relation to the first question, the Government, consistent with the advice that I provided to the honourable member in response to an earlier question, received a recommendation from the independent Third Party Premiums Committee for an increase of 12.9 per cent, so I am not sure what the Leader of the Opposition is going on about. That is not a figure constructed, concocted or manufactured in any way by the Government.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: If the Hon. Mr Elliott wants to snigger at the independent Third Party Premiums Committee, let him snigger away.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: So, I will not be critical of the Third Party Premiums Committee, as some other members of this Chamber have been. That was the nature of the recommendation that came to the Government, and the Government is the one that has taken the decision to agree to only an 8 per cent increase, together with a cost control package, which will be unveiled to the Parliament in the coming days.

The Hon. NICK XENOPHON: I have a supplementary question. At the outset I disclose that I have an interest in a law firm that undertakes third party work for victims of motor vehicle accidents. What advice or recommendations have been made by the Motor Accident Commission and/or SGIC General Insurance Limited—the sole manager of the compulsory third party fund—to the Government in relation to any proposed changes to benefit levels payable to motor vehicle accident victims?

The Hon. R.I. LUCAS: The Government has taken advice from the Motor Accident Commission and has also taken its own advice in relation to the cost control package. The final details of the legislative package to be brought before the Parliament are being finalised, probably as we speak. I hope to give notice tomorrow for a Bill to be introduced to the Parliament on Thursday. Once the Bill has been introduced, knowing the honourable member's past and (as he has indicated)—

The Hon. Diana Laidlaw: His continuing interest.

The Hon. R.I. LUCAS: —continuing interest in this area, I would be happy to make available officers to brief the honourable member on the Government's position. The Government's position is clear: this will be a decision for the Parliament to take. It can decide to accept the Government's proposition for an 8 per cent premium increase for all vehicle owners in South Australia and to vote for the cost control package; or, if it decides to reject the cost control package, it will have to vote for an extra 4.9 per cent premium increase. I will issue a directive—

The Hon. T.G. Roberts: It's Hobson's choice.

The Hon. R.I. LUCAS: It is, very much; it is one of those difficult choices. The Hon. Terry Roberts, who is a leading member of the Opposition front bench, has said it is Hobson's choice.

Members interjecting:

The Hon. R.I. LUCAS: Well, it might not be what the Hon. Terry Cameron calls him, but I call him a leading member of the Rann front bench. He has said that it is Hobson's choice, and in essence that is true. There is no easy choice in relation to this: we must either reduce the costs of the scheme or increase the premiums for everyone. Unpalatable as it might be, that is the case. Only last week the insurers in the Northern Territory announced, I think, a 35 per cent increase in premiums for everyone on the standard rate. In New South Wales the cost of the standard CTP insurance is $432, compared to approximately $250 for the standard car here in South Australia.

These schemes are very difficult to manage and run. We have taken independent advice. We are providing to the Parliament the opportunity to reduce the premium increase for all vehicle owners, but it is a decision for the Parliament. If the Parliament believes—

The Hon. T. CROTHERS: I rise on a point of order, Sir. The Minister keeps referring to the Parliament as making the

decision in respect of this money matter. Constitutionally, this Council has a very limited role in the decision making processes and—

The PRESIDENT: Order! The honourable member has—

The Hon. T. Crothers: It is in fact the other place—

The PRESIDENT: Order! The honourable member has said enough to enable me to rule that it is not a point of order. I call on the honourable Treasurer.

The Hon. R.I. LUCAS: I reject the point of order—not that it is up to me to reject it. It will be for this Chamber and another Chamber to decide what they want to accept when the legislative reform package is brought before the Parliament. A consequence of a possible rejection of that package will be that those members who reject it will be putting up their hands for an immediate 4.9 per cent increase in the CTP premium for our average vehicle owners. I will have to issue a directive to MAC to further increase the 8 per cent they have already authorised to 4.9 per cent. This is a genuine attempt by the Government to reduce the extent of the premium increase on the vehicle owning public in South Australia.

STATE BUDGET

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about the budget forward estimates.

Leave granted.

The Hon. P. HOLLOWAY: In his budget speech last Thursday the Treasurer claimed it would be necessary to introduce a mini budget in October to raise up to $150 million unless Optima and ETSA were sold. Table 2.4 in budget paper 2 indicates that the Government is budgeting for a nominal surplus in each of its next four financial years. The budget reconciliation statement, table 2.5, does not factor the sale of ETSA or Optima Energy into the policy change adjustments necessary to achieve these future surpluses.

Similarly, forward estimates for income from commercial trading enterprises, table 6.16, assume a continuing stream of dividends from ETSA and Optima, and the forward estimates for outlays, in table 5.15, do not indicate any changes to net interest payments as a consequence of any ETSA and Optima sale. In the light of that, my questions are:

1. Will the Treasurer say whether his budget forward estimates assume the sale of ETSA and Optima?

2. If the forward estimates are based on the sale of ETSA and Optima, why do the projected interest payments and the projected dividend streams not reflect this fact?

3. However, if the forward estimates do not assume the sale of ETSA and Optima, how can the Treasurer justify his threat of a further $150 million tax hike, given that the forward estimates show future budget surpluses for at least the next four years?

The Hon. R.I. LUCAS: The honourable member has been a little sneaky in the explanation of his question.

Members interjecting:

The Hon. R.I. LUCAS: I hope I do not flatter him too much by saying he has been sneaky and that the question has not been written for him, because these were indeed the comments that Kevin Foley and Mike Rann were making last Thursday and Friday.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The Hon. R.I. LUCAS: Thank you.

The Hon. L.H. Davis: You might take it as a compliment.

The Hon. R.I. LUCAS: I took it as a compliment. As to table 2.5 to which the honourable member refers, he deliberately chose not to refer to the note underneath the table.

The Hon. L.H. Davis: He didn't see it.

The Hon. R.I. LUCAS: He either didn't see it or he deliberately excluded it from the explanation of the question. Let me read it out for him. Obviously the honourable member does not read the fine print, because it says:

> The above estimates are net of any premium asset sales. The premium on the asset sales have been included in table 2.5.

The Hon. L.H. Davis: And you're the finance spokesman?

The Hon. R.I. LUCAS: That is right. The Deputy Leader is the finance spokesman for the Opposition and the alternative Government, yet he deliberately omitted to mention that there was a note saying that the asset sale premium had been included in the reconciliation statement in table 2.5.

The next stream of the argument that came from Kevin Foley and Mike Rann last week—and obviously the Hon. Paul Holloway is hopping along in their trail this week—was, 'Why have you netted it off in the reconciliation statement? Why do you not actually put in there what the asset sale premium is?'

The Hon. L.H. Davis: Tell the world.

The Hon. R.I. LUCAS: Tell the world: exactly. Why would—and we have had this debate before—the Government identify in its reconciliation statement what it is expecting to get from the sale of ETSA and Optima? Would it be just to please Kevin Foley, the Hon. Mr Holloway or Mike Rann?

Members interjecting:

The Hon. R.I. LUCAS: No. In the forward estimates the asset sale premium has been netted off against the outlays in the reconciliation statement, and we are not going to put a separate budget line, for the Hon. Mr Holloway or anyone, which indicates how much we expect to get from the asset sale premium. So, all I can say is that the Hon. Mr Holloway is about five or six days behind Kevin Foley and Mike Rann. This was explained to Kevin Foley, Mike Rann and journalists last week. Either his Lower House colleagues have not bothered to explain to the Hon. Mr Holloway or the explanation has not sunk in for the Hon. Mr Holloway. It is intellectually dishonest of the Deputy Leader to refer to table 2.5 without referring to the explanatory note at the bottom of it, which makes quite clear that the asset sale premium has been factored into it, and I think the less of him for it.

The Hon. P. HOLLOWAY: By way of a supplementary question, in view of the Treasurer's comments will he explain—

Members interjecting:

The PRESIDENT: Order! It is hard to hear the question.

The Hon. P. HOLLOWAY: Will the Treasurer explain why his forward estimates for revenue streams include ETSA dividends and that his forward projections for outlays do not include any savings to interest?

The Hon. R.I. LUCAS: I am not sure whether there is much more I can add to the intellectual growth of the Deputy Leader of the Opposition in relation to the preparation of the reconciliation statement. If he is struggling, I will put aside a day or two to sit down with him and slowly go over the issue with him.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The only other thing I can say at this stage—other than extending the invitation to the Hon. Mr Holloway that, if he is struggling in relation to his understanding of the reconciliation statement, I will have a further chat with him later so that we do not take up the whole hour of parliamentary Question Time to the disadvantage of other members—is that it is clear in a number of tables within the budget documents—and I refer the honourable member to the net debt table—that the Government has not factored in a reduction in the net debt to the extent that we believe we will get a return from the sale of ETSA and Optima. Why? Because we do not want to indicate to potential bidders and buyers what we are expecting to get.

If the honourable member wants to jump up and down and say, 'Why have we not therefore factored in no dividends coming from ETSA and Optima in that particular section of the budget paper later on?', he can equally make the criticism, 'Why have we not netted off the debt levels in the outlays in the budget?' The reason is exactly the same. The netting off we have done has been against the outlays in Table 2.5. The explanatory note makes it quite clear, and it is intellectually dishonest of the Deputy Leader to suggest otherwise.

MOBILE PROPERTY TAX

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer a question about the mobile property tax.

Leave granted.

The Hon. T.G. ROBERTS: In a very informed article, obviously penned prior to the budget delivery but printed on the same day the budget was brought down, the *Border Watch* was given a sneak preview of the submission the RAA had given to Damien Cocks—an accurate assessment of what the budget would include. It tells its readers of the suspected difficulties that motorists will have as a result of some of the increases in revenue with which the Government will seek to pad out its budget, affecting people in rural areas, including home, boat, trailer and caravan owners, and certainly motor car drivers. The *Advertiser* Budget '98 liftout had an explanation on Friday 29 May which stated:

> Home, car, boat and caravan owners will be hit with a new levy to pay for emergency services. It will mean people paying twice with home owners having to pay the levy on their property as well as any cars, boats or caravans they own. It is aimed at raising about $100 million a year. The actual levy rate, which will swing into operation from 1 July 1999, has not been struck.

In striking the levy for emergency services, will regional differentials be taken into account in relation to motor car ownership given that public transport is not a luxury in most regional areas?

The Hon. R.I. LUCAS: The Government's position on the emergency services levy was outlined by the Minister for Emergency Services in a ministerial statement last Thursday and by me, as Treasurer, in the budget speech, and that is that many of the final decisions in relation to the levy have not yet been taken by the Government. A number of issues still need to be resolved by the Government in terms of its deliberations.

We have received expert advice from the expert committee, and I believe that that report was tabled last Thursday in the Parliament. That is an indication of the thinking of that expert committee. It is now for the Government to consider that committee's report and any other advice that it might take and make a determination on not only the issues that the honourable member has raised but, as I am sure he would realise, the many other issues which are currently being raised within the Government and by others who are now aware of the possibility of the emergency services levy.

At this stage I cannot provide any further information in a public forum to the honourable member. It really is an issue—one of many—that the Government is still working on. As soon as the Government has made its decision it will share that information with the Parliament.

ELECTRICITY, PRIVATISATION

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Treasurer a question about the sale of electricity assets.

Leave granted.

The Hon. J.S.L. DAWKINS: In an article in the *Advertiser* of 28 May the New South Wales Premier, Bob Carr, was quoted lashing elements of the ALP opposed to privatising that State's electricity industry. Apparently Mr Carr said on ABC radio:

> The sad thing for sections of my Party that have got their heads stuck in the sand on this issue is that it will not go away.

In addition, the *Sydney Morning Herald* of the same date described the Premier as having 'turned up the heat on opponents of the electricity privatisation', saying it should be sold while prices were high. Despite this action by Premier Carr, the New South Wales ALP country conference apparently passed a motion opposing the sale of electricity assets over the weekend. Does the Treasurer have any comments to make on this situation?

The Hon. R.I. LUCAS: I thank the honourable member for his question because I think it further illustrates the fact that this decision that the South Australian Government has taken is a decision equally being taken by our opponents, on the other side of the political spectrum, in New South Wales. Some people have sought to criticise the decision of the Olsen Liberal Government in South Australia as being an ideological one, indicating that the Government is hell-bent on pursuing some sort of right wing ideological agenda. Clearly, the Government in South Australia rejects that. We think that the continuing public comments of both Bob Carr and Michael Egan in New South Wales are further testimony to the fact that Governments of all political persuasions are coming to the same judgment.

It is interesting to note that the ACT and Tasmanian Governments have recently undertaken consultancies on the issues regarding the electricity industry. Both those consultants' reports have provided varying advice in relation to the further privatisation of electricity industries in the ACT and Tasmania. Even though Western Australia is not part of the national market, it is looking at a modest program of privatisation. Twenty per cent of Queensland's electricity industry is already privately owned, so there is already part private ownership of that State's electricity industry.

Should this Parliament, in the end, vote down the sale of ETSA and Optima, my judgment would be that we, perhaps together with Queensland—and I guess that depends on the results of the coming State election, whether there is a Conservative Government or a Labor Government in Queensland—would then be almost orphans in the electricity industry debate by remaining in public sector ownership. Inevitably, whatever the political positions of Governments of the day, 10 years down the track—or perhaps even five years down the track—virtually all the national electricity industry will be in private sector ownership and control.

COOPER CREEK

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister for Environment and Heritage a question about the Cooper Creek system.

Leave granted.

The Hon. M.J. ELLIOTT: There has been a great deal of discussion in the media recently about the future of one of Australia's last wild river systems, the Cooper Creek system, and the implications of new plans to allow more water to be removed from its upper reaches in Queensland. The Cooper Creek is one of the most variable large rivers in the world. It is integral to the health of the Lake Eyre basin and the Coongie Lakes region which are wetlands of world significance and subject to RAMSAR treaty. It also has huge implications for both pastoralists and tourism.

The Queensland Government has released a draft water management plan for the Cooper Creek that seeks to allow Queensland pastoralists and irrigators to take a total of 390 000 megalitres from the Cooper Basin. As metropolitan Adelaide uses about 350 megalitres of water each day at this time of the year, this would equate to three times as much water as Adelaide uses in a year. The plan pre-empts a heads of agreement, signed in May 1997, between the South Australian, Queensland and the Federal Governments for the management of the Lake Eyre Basin. The agreement signing followed concerns about another Queensland bid to extract an extra 42 000 megalitres from the Cooper catchment near Windorah in Western Queensland for a major cotton farming project.

The Australian Conservation Foundation believes the new proposal would potentially stop the headwaters of the Cooper system flowing for an extra 35 days in at least one out of every two years. The agreement was to have included legislation being introduced into the South Australian and Queensland Parliaments at the start of this year. I have been told that that legislation still has not been drafted. Last week in another place, the Environment Minister suggested that South Australia 'will not be bullied into accepting anything less than the long-term survival of the basin'. My questions to the Minister are:

1. What action has the Government taken in response to the release of the Queensland draft water management plan for Cooper Creek?

2. What impact will this new proposal have on the number of days that the Cooper will flow into South Australia?

3. In the Minister's view, what level of protection should be afforded to the Cooper system?

4. Will the Minister lobby the Queensland Government to ensure that the studies on the proposal include investigations into ecological and environmental issues, as well as the hydrological issues?

5. What impact does the Government expect this proposal to have on the Cooper catchment and the Coongie Lakes area in particular?

6. What importance does the Government place on this region?

7. What does the Minister mean when she calls for the 'long-term survival of the basin'?

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

STATE BUDGET

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Treasurer a question about wage increases and the impact on the budget.

Leave granted.

The Hon. L.H. DAVIS: In early May, members will recollect that South Australian nurses were poised to take industrial action after rejecting the Government's pay offer of a 6 per cent rise over two years. The Nurses Federation was after a 15 per cent increase, to be phased in over three years. At the time of that debate and the threatened industrial action, Opposition spokesman in another place, Lea Stevens, went on record on channel 2 television news, as follows:

> I think that what the nurses are asking for is well deserved, and I think the Government would be silly to turn their backs on it.

In other words, the Opposition spokesman, Lea Stevens, was advocating—

The Hon. T.G. Roberts: Spokesperson!

The Hon. L.H. DAVIS: Spokesperson—a 15 per cent increase, which was what the Nurses Federation was after.

Members interjecting:

The Hon. L.H. DAVIS: I'll read that slowly for the Hon. Paul Holloway, who is having a rough day. On channel 2 news, 6 May 1998, Lea Stevens said:

> I think that what the nurses are asking for is well deserved, and I think the Government would be silly to turn their backs on it.

Okay? Do you want me to read that again?

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: Well, he didn't understand it. I'm just telling him again slowly; I still don't think he believes me. The implications of this statement were obvious—that, if the Government had agreed to that 15 per cent increase, it would have obviously had a flow-on effect into the public sector. Given that salaries and wages account for 70 per cent of budget outlays—

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: —presumably it would have had a significant and dramatic impact on budget expenditure. The Hon. Paul Holloway possibly may not remember this so I will remind him. In the event, the Government, after some negotiation, made an agreement with the Nurses Federation to increase pay by 9.9 per cent over three years, well short of the 15 per cent ambit claim which had been advocated by Lea Stevens.

Does the Treasurer have any indication as to what the possible flow-on effects would have been if the Government had accepted the proposition that nurses' wages should have been increased by 15 per cent over three years? As this was advocated publicly by Opposition spokesperson Lea Stevens, what would the flow-on effects have been in the case of the nurses and, again, what possible flow-on effects would there have been for the rest of the public sector?

The Hon. R.I. LUCAS: I thank the honourable member for his question, because it is a question of some importance as it reflects the credibility of the alternative Government on budget formulation. The Hon. Legh Davis has nailed clearly in his question that we had a leading spokesperson for the alternative Government, the Labor Party, sanctioned and approved by Mike Rann as the Opposition Leader and Kevin Foley, the shadow Treasurer, out there—

The Hon. L.H. Davis: But Paul Holloway didn't know about it.

The Hon. R.I. LUCAS: I'm not sure about Paul Holloway; I'll give him some credit. The Hon. Paul Holloway is now trying to say that the actual video clip—and this was not a reported statement—

The Hon. L.H. Davis: With her lips moving!

The Hon. R.I. LUCAS: Exactly!—with her lips moving—was out of context. That is the best defence the Deputy Leader of the Opposition can come up with. We had a leading spokesperson for the Labor Party, sanctioned and approved by Mike Rann as the Opposition Leader and by the shadow Treasurer, Kevin Foley—

The Hon. A.J. Redford: He's going to dump her; I've heard it.

The Hon. R.I. LUCAS: He is going to dump her, is he? Well, maybe he was setting her up; I'm not sure. We had the Opposition Leader and the shadow Treasurer endorsing Lea Stevens's publicly advocating a 15 per cent wage and salary increase for nurses. That is an example of financial vandalism by the Labor Opposition—by Mike Rann, Lea Stevens and Kevin Foley.

I have indicated before that, even with a reasonable level of wage increases of the order of 2 per cent to 3 per cent per year, which the Government has been offering public servants, police and nurses, in the fourth year of this financial plan we will have to find about $400 million extra over and above that of 1997-98 for wages and salaries for teachers, nurses, police and public servants.

As to the financial vandalism of Mike Rann, Kevin Foley, Lea Stevens and Paul Holloway, with their open support on television for the 15 per cent wage increase proposed by the nursing leaders and others, it has been estimated that that flow through would cost up to $600 million extra in our fourth year compared with 1997-98. We would have to find an additional $200 million to pay for the sort of wage increases that are being supported by the Labor Opposition.

On the one hand we have the Hon. Mr Holloway, who is trying to stand up with some credibility in this Chamber and sadly failing, saying that he opposes revenue increases, he opposes expenditure reductions and he opposes asset sales, yet he and his colleagues support 15 per cent wage increases! He has the effrontery to stand up in this Chamber and claim that he can balance the budget and reduce the level of the State's debt. Not one of his colleagues believes him. I ask whether the Hon. Terry Cameron believes that sort of economic recipe to run a budget?

Members interjecting:

The Hon. R.I. LUCAS: Ask the Hon. Ron Roberts whether he supports that sort of financial recipe. What the Hon. Mr Holloway knows is that, increasingly, members of his own Caucus are openly saying amongst themselves and in the corridors that Rann, Foley and Holloway have got the Opposition in a real mess. They have nowhere to go in response to the budget. I can only suggest to the Hon. Mr Holloway that, instead of sniping at the Hon. Mr Cameron, trying to undermine him and trying to attack him behind his back, he should sit down and listen to what he says about the budget and to what are the options for the Labor Party. He should listen to the political strategy that he is advocating. Perhaps together with Mr Rann and Mr Foley the honourable member might learn something.

ADELAIDE CITY COUNCIL

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Treasurer, representing the Premier, a question on the future of the Adelaide City Council.

Leave granted.

The Hon. G. WEATHERILL: A rather bleak report on page 14 in the *Advertiser* of 22 May 1998 described the contents of the *Adelaide 21* report compiled for the Government on the Adelaide City Council. The report stated that in 1996 Rundle Mall made $473 million. It is expected over the next couple of years that that figure will drop to $360 million. The report also suggested that a way of drawing people into Adelaide is to offer cheaper car parks and more car parking. According to my information, the experience interstate where that sort of thing has been tried is that it has not worked. My question is: does the Premier believe that the city will drop $113 million and how much of that does he put down to unemployment in South Australia over the next couple of years?

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

ELECTRICITY, PRIVATISATION

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Treasurer a question on the Electricity Trust of South Australia.

Leave granted.

The Hon. J.F. STEFANI: In the *Advertiser* of 26 May, it was reported that ETSA, in cooperation with North West Water, had won a $2 million contract for the supply of electricity to the Macarthur Water Treatment Plant in New South Wales. In the article, the Managing Director of North West Water (Mr Graham Dooley), said that ETSA had undercut its competitors from New South Wales and Victoria by tens of thousands of dollars for the $2 million deal.

Given the concerns which have been expressed by the Government on the issue of electricity trading by ETSA and the fact that ETSA relies on the purchase of a reasonable volume of power from interstate sources at prices which at times fluctuate greatly, my questions are:

1. Will the Treasurer check that the contract signed by ETSA for the power supply does not result in the loss of taxpayers' money?

2. Will the Treasurer advise whether the contract signed by ETSA is subject to rise and fall adjustments for the price of electricity to be supplied over the life of the three-year agreement?

3. If the contract is subject to adjustments, will the Treasurer advise what formula will be applied to adjust the price of power to be supplied by ETSA?

The Hon. R.I. LUCAS: I thank the honourable member for his excellent question. I guess that the last thing ETSA would want when it has signed a contract is for its customer to say that it undercut the opposition by tens of thousands of dollars. ETSA would prefer its customer to say that it got in by a dollar and that it had just undercut the market. As the honourable member knows, I have only just become the Minister responsible for ETSA, so I will take up the issues directly with ETSA management and seek a detailed response to his excellent series of questions.

ELECTRICITY, VICTORIA

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Treasurer a question concerning the decision by the Victorian Regulator-General

to reduce the regulated rate of return on monopoly infrastructure.

Leave granted.

The Hon. SANDRA KANCK: Today's *Financial Review* carries an article by Ivor Ries detailing a draft decision by the Victorian Regulator-General to slash the pre-tax rate of return on regulated assets from 10.9 per cent to 7 per cent. If implemented, the decision means that the owners of Victoria's monopoly poles and wires businesses face a 35 per cent reduction in the level of profits they are permitted to earn on those assets. The Regulator-General has effectively ruled that Victoria's electricity utilities have been making exorbitant profits on the poles and wires component of the electricity supply business.

The Australian Competition and Consumer Commission, which is to become the regulator of the national electricity market, released an almost identical draft decision last week. The *Financial Review* today estimates that this decision, if implemented in South Australia, would lead to a potential $1.4 billion write-down in the value of ETSA. My questions are:

1. Is the Treasurer aware of the Victorian Regulator-General's ruling?

2. Does the Treasurer agree that this ruling if implemented in South Australia would reduce ETSA's value by $1.4 billion?

3. Would a $1.4 billion reduction in the estimated sale price of ETSA change the Government's decision regarding the privatising of ETSA?

4. If not, why not?

The Hon. R.I. LUCAS: I thank the honourable member for her question. As she rightly identified in her explanation, this was a draft decision and, given the nature of it, I understand that it is likely to be contested or challenged by a number of interested parties in Victoria and potentially in other States. Secondly, as she also rightly identified, it was in the gas industry as opposed to electricity. Between the draft decision stage and any final stage there will be a fair bit of work done by a whole range of interested parties.

Obviously we are seeking further advice on the detail of the decision and its possible implications, so I can say only that, if it or some variation of it were to apply to South Australia, it would significantly impact not only on the possible private ownership of ETSA but also on the public ownership of our public utilities as well.

According to the advice provided to me, that would lead to a significant reduction in the level of dividends flowing to Treasury from publicly owned electricity businesses. So, this decision has a potential impact not just on private owners: it will also impact on the option which some members, such as the Labor Party, have contemplated, of continued public ownership. It means that the revenue of approximately $200 million dividend stream coming in from ETSA and Optima is likely, according to the advice given to me, to be significantly reduced.

The Hon. Sandra Kanck: By how much?

The Hon. R.I. LUCAS: It is too early for us to indicate how much it might be affected. I cannot confirm what the impact might be on the sale value of the assets, nor on the dividend flow of the public utilities. It is important that members realise that it is something that will not impact solely on the private ownership; it will also impact on the public sector ownership of the assets.

Another point to note is that one of the criticisms made by some of the opponents of the sale of our electricity businesses has been that, in the words of the Labor Party, there will be significant increases in prices for consumers. If this decision was implemented in electricity businesses in South Australia, it would lead to a significant reduction in prices. That is the trade-off that the Regulator-General is talking about in terms of the Victorian gas industry, that is, lower prices for consumers. If it was to flow through (and I am not saying that it would), it would mean lower prices for electricity consumers in the South Australian marketplace.

At this stage that is the only information I can share with the honourable member. I have had only a very general briefing from our advisers but at an early stage they have hastened to repeat their advice to me that this is only a draft decision. A lot of water is yet to flow under the bridge; there will be a lot of interest in contesting or challenging—

An honourable member: Or a lot of electricity to flow through the lines.

The Hon. R.I. LUCAS: Yes—and it is still to be resolved.

MOTOR ADMINISTRATION FEE

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking a question of the Minister for Transport and Urban Planning and Minister for the Status of Women.

Leave granted.

The Hon. R.R. ROBERTS: In the *Sunday Mail* last week an article by Mike Duffy headed 'Sneaky tax hits drivers' stated that an investigation by the *Sunday Mail* revealed that the Motor Transport Department had, without notice, begun charging from early May four administrative fees of $10. Included in those listed is a $10 charge to newly married women who want their licence to show their married name. I have looked at the Equal Opportunities Act, page 3 of which provides that it is an Act to promote equality of opportunity between the citizens of this State, to prevent certain kinds of discrimination based on sex, sexuality and marital status and a whole range of other things. Page 5 provides the services to which this applies. Paragraph (h) includes services connected with transportation or travel, and paragraph (j) provides 'services provided by a Government department, instrumentality or agency or a municipal or district council'.

Further on in the Act, again, under the prohibition of discrimination on the grounds of sex and sexuality, paragraph (c) on page 15 refers to 'discrimination on the grounds of marital status'. It also provides that one cannot treat another person unfavourably because of their marital status. Clearly, on the surface, charging a $10 licence fee discriminates against those recently married women who wish to have their name put on their licence.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! Let the honourable member ask his question.

The Hon. R.R. ROBERTS: If I wished to seek gratuitous advice from a two-bob lawyer, I would ask the Hon. Angus Redford. In the meantime I would appreciate it if he would just keep his nose in his own business. My questions to the Minister (who actually takes the questions here, not the back bench rabble) are:

1. Were those fees of $10 now being charged by the Department of Motor Transport regulated or were they administrative decisions made by the Minister and her department?

2. What investigations did the Minister take to ensure that these fees did not breach the Act?

3. Will the Minister stop the payment of the $10 fee for newly married women who want their licence to show their married name and return any fees paid by citizens to date?

The Hon. DIANA LAIDLAW: The answer to the third question is 'No.' This was part of a comprehensive package of initiatives and, as I will not be able to do so before the end of Question Time today, certainly tomorrow I will provide a more detailed answer for the honourable member.

ADELAIDE CASINO

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Treasurer a question about the Adelaide Casino.

Leave granted.

The Hon. NICK XENOPHON: The Adelaide Casino has 694 gaming machines. The average pay-out rate of gaming machines in hotels and clubs is of the order of 88 per cent. In recent months the Adelaide Casino has conducted an extensive advertising campaign exhorting the public to play Casino pokies because, in part, the machines have 'the highest pays in town' and pay out up to 98 per cent. I understand that only a fraction of the Casino pokies actually pay out at the 98 per cent rate.

I have written to the Adelaide Casino requesting details on which machines pay out at 98 per cent, only to be told that this information is not publicly available. My questions to the Treasurer are:

1. What has been the extent and cost of all Adelaide Casino advertising and promotions which refer to the Casino's gaming machines paying out up to 98 per cent?

2. Does the Treasurer concede that the advertising campaign referred to is inherently misleading and deceptive, because the machines that pay out at 98 per cent cannot be identified to the public?

3. Will he consider recommending to the Casino that it desist from such advertising and, further, to identify the machines in question?

The Hon. R.I. LUCAS: I am happy to take up the issue with the Casino management and bring back a considered reply for the honourable member. I must admit that I had thought there was some identification of the pay-out rate of the machines, but I bow to the greater knowledge of the inveterate campaigner on gaming machines. I would not dare to cross him if he suggests that it does not indicate what the pay-out is. Certainly I know from the previous discussions I have had with the people who owned hotels and gaming machines about the pay-out ratio within their establishments—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: I guess that might be true. I am not sure whether I have any continuing friendships in that area, but it did not seem to be a matter of secrecy with those proprietors. Maybe that was because I was there as a Minister of the Government and they were treating me differently from others who visited their establishment. I bow to the greater knowledge of the Hon. Mr Xenophon on these issues. I will take considered advice and bring back a considered response.

EMERGENCY SERVICES FUNDING

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, Correctional Services and Emergency Services, a question about the new levy for covering the costs of emergency services.

Leave granted.

The Hon. IAN GILFILLAN: I sat in on a briefing that the Hon. Iain Evans as Minister for Police, Correctional Services and Emergency Services gave to the Local Government Association last Friday. I was interested to read his paper on the matter as well. I do not think there is any dispute with the paragraph that I quote as follows:

> It is proposed to replace the current funding arrangements with a system focused on ensuring fairness in contributions which is underpinned by a strategic risk-based framework for allocating resources. This will ensure—

The Hon. M.J. Elliott interjecting:

The Hon. IAN GILFILLAN: Some honourable members have long memories of history. It continues:

> This will ensure that all members of the community make a fair contribution for the services they may require and receive the protection they genuinely need.

The actual fund is to be collected on a property valued formula. Part of it will be a flat fee and the other part will be based on the capital value of the property. From questioning at that time last Friday it appeared to those present that the Minister had still many areas which had not been determined, including the amounts of money involved and the proportion which would be the flat fee compared to the rateable component.

Also raised was the matter of the levy being applied to Government property, and the Minister made the point that there is no valuation of Government property and that that factor obviously had not yet been calculated. So, it is with some interest that I see in the same statement that the Minister says he expects to introduce a Bill on the matter this week. Either there is an awful lot of camouflage over detail that the Minister was not prepared to disclose or there is a lot of still indeterminate and hazy areas in the evolution of the scheme. It is because of the potential abuse of the scheme—and not the principle of the scheme—that so many people are still unsure and unhappy about its possible implication.

The Hon. T.G. Roberts: We still have to vote on it.

The Hon. IAN GILFILLAN: Yes. The Hon. Terry Roberts asked a question earlier, and it is important that there be a proper debate on the Bill so that these concerns can be fully addressed. We are really serving notice. Before asking my questions, I make the point that it appears very much like a hypothecated tax, however it is described. It goes into a fund, and I hope the Bill will clearly define what will be 'emergency services'.

In answer to a question at the LGA briefing, the Minister was not definite. He indicated that there were areas outside those listed that could be covered. Can the Government give an assurance that the result of the change will be an overall reduction in cost for those who are presently fully insured? What, if any, specific benefit to the community can be guaranteed as a result of the savings achieved by local and State Governments and, flowing on from that, will the Government introduce measures to ensure that the savings in its own outlays and those of local government—the outlays which they contribute to emergency services and which will now be saved—are passed back to the community with corresponding reductions in local government rates and State Government charges?

The Hon. K.T. GRIFFIN: A number of areas are currently being worked on but it is probably best if we consider the detail of the questions raised by the honourable

member and bring back a reply in due course. That is probably the better way to go.

NORTH HAVEN FIRE

In reply to **Hon. L.H. DAVIS** (26 March).

The Hon. R.I. LUCAS: The Premier has advised that in the Auditor-General's opinion the correct characterisation of the matters raised by the honourable member relate to alleged maladministration, and/or possibly corruption. This being the case, the appropriate entity to conduct any inquiry would be either the Ombudsman or the Anti-Corruption Branch of the Police Department. It is to be noted that the Ombudsman has coercive powers to enable him to obtain all relevant documentation and to obtain evidence from parties who may be involved.

On the basis of the circumstances that have been raised in the Parliament it would not be appropriate for the Auditor-General's Department to undertake a specific inquiry into this matter.

COUNCIL RATES

In reply to **Hon. T.G. CAMERON** (26 March).

The Hon. R.I. LUCAS: The Minister for Local Government has provided the following information.

A comprehensive review of the Local Government Act is currently in progress. A wide ranging consultation process will be commencing in May, with Consultation Draft Bills for new local government legislation being released for discussion.

The legislative review will include review of the provisions governing rates and charges levied by Councils. The issues raised by the honourable member concerning the provisions which should apply to the imposition of penalties for the late payment of Council rates will be considered as part of the legislative review and consultation process.

Data provided by the Australian Bureau of Statistics indicates that in 1995-96 (the most recent available data), Councils in South Australia collected in total $2.9 million as penalties (fines and associated interest) for the late payment of rates. The general rates collected by councils in 1995-96 totalled $444.2 million. As a percentage of total general rates collected by Councils, penalties for late payment of rates represented 0.6 per cent of total rates.

GOVERNMENT CHARGES

In reply to **Hon. T. CROTHERS** (25 February).

The Hon. R.I. LUCAS: The Minister for local government has provided the following information.

1. There is currently adequate landfill capacity in the southern metropolitan area to serve the region's needs for well in excess of ten years. The Government recently approved the development of a balefill disposal facility at Dublin which can provide long term capacity in the northern metropolitan area. Two other proposals are still to be assessed. A Waste Management Infrastructure Steering Committee, chaired by a Senior Officer from the Department of Transport, Urban Planning and the Arts, is currently examining the question of Adelaide's long term waste management infrastructure needs.

2. The German system of managing packaging waste has been examined and is not considered appropriate for introduction into South Australia.

The system referred to by the honourable member, known as the Dual System, Green Dot and Verpack VO relates only to packaging waste which comprises only 10 per cent of the total waste stream.

Its main aim has been to limit the environmental impacts of packaging although the laws are being expanded to cover other materials. It is the responsibility of the retailers and manufacturers as well as the manufacturers of packaging for the disposal of packaging.

Retailers are responsible for collection of primary packaging and secondary packaging. Packaging has to be sorted by the producer, introducing high sorting costs.

To help overcome these costs, a collection network—the Duales System Deutschland, has been set up by the companies which guarantees the collection and processing of packaging waste. The law applies to all products sold in Germany including those that are imported.

Infrastructure in Germany was not developed to cope with the increase in the amount of material recovered. Markets were not available within the country. The price of recyclable materials fell as a result of oversupply and they were dumped on international markets.

The system has resulted in less packaging in Germany and higher cost of packaging and consumer goods. Responsibility resides only with industry and is not shared with Government and consumers.

The agreed Australian approach has been one of shared responsibility, with voluntary targets and agreements. Industries that do not adopt a responsible approach will be caught by a National Environment Protection Measure which is currently being developed.

In South Australia, this shared approach combines container deposit legislation under the Environment Protection Act and kerbside collection of recyclables coordinated by local government. This State leads Australia with its recovery and recycling rates for beverage containers and are equal to the best rates in the world.

3. No.

4. The Government has not received, and has not considered any proposal from Recycle 2000 or local government for a user charge for domestic waste collection. It is understood that there has been some preliminary consideration within local government of a range of possible future approaches to encourage waste minimisation and to fund improved waste management services, and 'user charge' was one of a number of ideas raised by Recycle 2000. The State Government is committed to supporting ongoing waste reduction. However, any major change to the basis for funding household garbage collection services would require very careful consideration and wide public consultation.

5. Current levels of taxes and levies provide levels of service within the health and education system as good or better than any in the nation, as well as providing the means to reduce the level of State debt.

CANNABIS

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, Correctional Services and Emergency Services, a question on cannabis use by children.

Leave granted.

The Hon. CARMEL ZOLLO: I was concerned to read a report in the *Advertiser* in the past few months which indicated that parents believe it is legal to grow and use marijuana. Police were reported as saying that children as young as 12 have been caught cultivating cannabis plants and that there appeared to be an increase in the incidence of children being caught. I am amongst many people in our community who believe that the health and lives of many of our young people have been damaged through lack of proper and informed information on the long-term effects of cannabis, depending especially on the susceptibility of the user.

It is now well documented that long-term use of cannabis is linked to cancer, given that marijuana contains more carcinogenic benzopyrenes than tobacco, and to respiratory illness, depression and psychosis. If regular susceptible users are fortunate enough to rehabilitate themselves following a strong dependency, they have still lost many productive years of their lives. My questions are:

1. How many incidents have been noted or reported of children in South Australia growing cannabis plants in each year of 1995, 1996 and 1997?

2. What were their ages at the time of noting or reporting?

3. What action, if any, has been taken against these children?

4. What specific State-sponsored programs are in place to ensure that young people are educated on both the legal aspects and health dangers of cannabis?

The Hon. K.T. GRIFFIN: I will refer the questions to my colleague and bring back a reply.

STATUTES AMENDMENT (YOUNG OFFENDERS) BILL

In Committee.

Bill taken through Committee without amendment.

Bill read a third time and passed.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 May. Page 796.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the Bill. A number of matters were raised to which I wish to refer. I have taken the opportunity to forward some of these comments to relevant members, including the Leader of the Opposition, with a view to facilitating the consideration of these matters. First, the attitude of the other States to the national practising certificate was raised. Queensland, the Northern Territory and Western Australia have indicated they have reservations about the scheme, but I do not know if they have made any final decisions one way or the other. New South Wales has legislated. Victoria enacted its own interstate practitioner provisions before the uniform scheme was settled. Other jurisdictions have indicated that they will be legislating, but I do not know at what stage they may be.

Various matters were raised by the Law Society, to which honourable members referred. It would be helpful if I were to deal with those issues now. The first relates to the definition of 'legal practitioner' in section 5. The Law Society suggests that 'South Australian' should be inserted in this definition. This is not necessary by reason of the definition of 'practising certificate' in the principal Act. It raises the question of definition of 'money' in section 5. The Law Society points out that the definition of 'money' has not been amended to overcome the problems with TIMBER and EFTPOS trust account transactions. That is true. The TIMBER problem is being addressed in regulations being drafted at the moment. The use of EFTPOS for trust account transactions needs more consideration to ensure the proper recording of all payments into and out of trust accounts made by EFTPOS. The recording of payments into and out of trust accounts as they occur is vital to the proper operation and auditing of trust accounts.

With regard to section 14AB(1)(c), the Law Society is not happy in that it is required to report unsatisfactory conduct that comes to its notice to the board. The society argues that this will be a disincentive to practitioners to come to the society for assistance at all or at an early time. This is a difficult area. If the board is able to assist the Law Society in identifying at an early time individual practitioners or groups of practitioners who pose a greater than acceptable risk to the public, the board needs to be aware of the problems. There should be no impediment to cooperation between the two groups to ensure the early identification, investigation and resolution of problems. It is clear that it is important that the board is informed of some if not all unsatisfactory conduct. The provision as drafted is right.

With regard to sections 52AA and 52AAB, the Law Society makes the point that, until it is known on what criteria the Attorney-General will approval insurance, no meaningful comment can be made on these sections. The society goes on to indicate where some interstate cover may have gaps. Section 52AA is drafted in the way it appears because professional indemnity insurance is not identical in all the States and Territories. The intention is that interstate practitioners will be required to have cover at least equal to the cover local practitioners are required to have. It may be that differences in policies will mean that total equality cannot be achieved, but extra cover in one area may compensate for lack of or lower cover in another area.

With regard to sections 57, the guarantee fund, the Law Society wants section 57 to be amended so that it may recover costs from the guarantee fund in respect of court appearances on applications for readmission and applications for suspension until further order. There is in fact no provision in the Act for applications for readmission. If a person has been struck off the roll of practitioners and wants to be reinstated, the person must apply for admission and new section 57(4)(aa) applies. So far as the society recovering its costs in applications in respect of suspension until further order is concerned, I fail to see why this is not already covered by section 57(4)(a) of the principal Act, which allows the recovery of costs of disciplinary proceedings.

The Hon. Carolyn Pickles also asked in relation to the guarantee fund whether there has been any resolution of the problems of claims on the fund as a result of the default of an interstate practitioner. This problem has not been resolved, but the provision we have should ensure that a satisfactory result can be reached by agreement with the other jurisdictions.

With regard to section 60 claims, it is clear from the Law Society's comments that the proposed amendments to section 60(2)(a) and (6) are not satisfactory and cannot proceed in their present form. Rather than hold up the Bill while the matter is sorted out, I propose not to proceed with them at this stage.

With regard to section 95(1), the Law Society requested amendment to this section. The amendment requested by the Law Society was in fact done in section 13 of the Legal Practitioners (Qualifications) Amendment Act in 1997. The Hon. Robert Lawson questioned whether any consideration has been given to imposing standard conditions on practising certificates under clause 23C. The answer is 'No.' The provision is there to allow a disciplinary authority to put conditions on an interstate certificate in the same way as it does on South Australian certificates; for example, a practitioner must not practice on his or her own account for a period, and such like. I thank members for their indications of support for the second reading of this Bill.

Bill read a second time.

In Committee.

Clause 1.

The Hon. IAN GILFILLAN: Did the Attorney actually send me details similar to those he sent to the Leader of the Opposition to enable me to look at the material because, if so, I do not recollect receiving them?

The Hon. K.T. GRIFFIN: The amendments were filed this morning. My note indicates that they were faxed to the Hon. Carolyn Pickles, the Hon. Ian Gilfillan and the Hon. Nick Xenophon this morning.

The Hon. IAN GILFILLAN: I may have misunderstood the Attorney-General in his concluding remarks. I understood him to say that he had sent some explanatory material to the Leader of the Opposition outlining, in part, responses to matters raised.

The Hon. K.T. GRIFFIN: That is what I was responding to. Maybe it was a shorthand way of describing what I did, but there are a list of amendments with explanatory notes to them. There is nothing controversial in them. If they were of a controversial nature I may not have been so forthright. However, I decided to get them faxed to the Leader of the Opposition, the Hon. Mr Gilfillan and the Hon. Mr Xenophon this morning, and they were amendments which were put on file and explanatory notes to those amendments.

The Hon. IAN GILFILLAN: I thank the Attorney for that. It may well be because I am several thousand metres higher than the Leader of the Party and the fax machine. I will certainly not hold the Attorney guilty in those circumstances—but I have not seen it.

The Hon. K.T. GRIFFIN: We did get confirmation that the faxes had been received by the numbers to which they had been transmitted.

Clause passed.

Clauses 2 to 13 passed.

Clause 14.

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

Page 8, line 5—After 'application by' insert:
'the Board'.

This amendment gives the board the same entitlement as the Law Society and the Attorney-General to apply to the Supreme Court for the suspension of an interstate practitioner's practising certificate where the practitioner has not complied with new section 23D.

Amendment carried; clause as amended passed.

Clauses 15 to 29 passed.

Clause 30.

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

Page 14—
Lines 15 and 16—Leave out paragraph (b).
Lines 26 to 35—Leave out subclause (6).

The first amendment and the definition of actual pecuniary loss in subclause (6) in the second amendment need further work. As I indicated in my second reading response, I do not propose to proceed with those provisions and for that reason we need to delete them.

Amendments carried; clause as amended passed.

Clauses 31 to 37 passed.

Clause 38.

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

Page 16, lines 27 and 28—Leave out paragraph (a).

The Legal Practitioners Conduct Board has made strong representations that paragraph (a) of new section 75(2) not be proceeded with. The board is concerned that paragraph (a) would require the whole board to meet and consider every complaint made to it in order to determine whether to commence an investigation and later whether to discontinue an investigation. The board points out that the number of complaints received by the board has doubled in recent years. On average, the board is receiving approximately 100 new complaints each month and is closing almost as many. The board has only been able to process complaints expeditiously by using its power of delegation.

The board has in place guidelines for the delegation of its functions to the director and senior legal officer. The board maintains a supervisory role of its delegated activities in that all matters closed by way of delegated decision are reported to the board for noting at each meeting. A member can raise any issue about a matter if he or she wishes to do so. The present guidelines adopted by the board mean that the only complaints referred to the full board for decision are those involving possible unprofessional or unsatisfactory conduct, recommendations to reduce an account or matters which are, for some other reason, complex or serious. I am satisfied that the guidelines for delegation and the supervision the board exercises are such that this provision is not needed and should not be proceeded with.

The Hon. IAN GILFILLAN: I suspect that it is the case, but can the Attorney assure me that deleting this paragraph will not interfere with the obligation for unsatisfactory conduct to be reported to the board?

The Hon. K.T. GRIFFIN: That is my understanding of the position and I can give the assurance.

Amendment carried; clause as amended passed.

Clauses 39 to 48 passed.

Clause 49.

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

Page 22, line 19—After 'order' insert:
'or until further order'.

Section 89(2)(b) presently provides that the Supreme Court can suspend the right of a legal practitioner to practise the profession of the law for a specified period or until further order of the court. The part about suspension until further order was inadvertently omitted in the redrafting. This amendment puts it back in.

Amendment carried; clause as amended passed.

Clauses 50 and 51 passed.

The CHAIRMAN: I point out to the Committee that clause 52, being a money clause, is in erased type. Standing Order 298 provides that no question shall be put in Committee upon any such clause. The message transmitting the Bill to the House of Assembly is required to indicate that this clause is deemed necessary to the Bill.

Clauses 53 to 55 passed.

Clause 56.

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

Page 26, lines 12 to 14—Leave out subclause (2).

This amendment is consequential on the amendments to clause 30.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Adjourned debate on second reading.

(Continued from 26 March. Page 687.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading of the Bill. I agree with the Attorney in his statement that this is a relatively non-controversial Bill. However, the shadow Attorney-General in another place had a number of concerns and questions in relation to some aspects of the Bill. I understand that the Attorney-General has briefed the shadow Attorney on these matters to their mutual satisfaction. Briefly, the questions are, first, in relation to the Criminal Law Consolidation Act 1935, why would the Chief Justice increase the non-parole period when decreasing the head sentence? Secondly, in relation to the Public Trustees Act, why does the Public Trustee now want to withdraw commissions and expenses from the common investment fund?

Thirdly—and the Attorney may be able to answer straight away; if not, I do not wish to hold up the passage of this Bill, as he may respond in another place or in writing—in relation to the State Records Act, on what grounds would an officer of the court prevent a file going to State Archives?

The Hon. R.D. LAWSON: I, too, support the second reading of this Bill. I wish to speak only in relation to part 13 of the Bill, which deals with amendments to the Wills Act, and in particular amendments to section 12 of that Act. Over 20 years ago, South Australia led the way in reforming the law on the formal requirements for the execution of wills. In 1979, the Wills Act was amended by the enactment of section 12(2), which empowered the court to admit to probate a document which was not formally executed in accordance with the provisions of the Wills Act. Prior to that time, strict adherence to the provisions of that Act were required before a will could be admitted to probate. Section 12(2), as introduced in 1975, provided:

> A document purporting to embody the testamentary intentions of a deceased person shall, notwithstanding that it has not been executed with the formalities required by this Act, be deemed to be a will of a deceased person if the Supreme Court, upon application for admission of the document to probate as the last will of the deceased, is satisfied that there can be no reasonable doubt that the deceased intended the document to constitute his will.

It is important to note that in that provision, as originally enacted in 1975, the court had to be satisfied that there could be no reasonable doubt that the deceased intended the document to constitute his or her last will.

As I said at the beginning, South Australia was the first Australian State to introduce this measure and, indeed, was one of the first places in the common law world to have such a provision. After South Australia, other Australian jurisdictions followed and, indeed, in some respects went ahead of South Australia. Initially, there was not unanimous support for a measure such as section 12(2), and I well recall opposition from the Victorian legal profession, and from the Victorian judiciary and the Law Reform Commission in Victoria, to any amendments of the kind which had been introduced in South Australia. An article was published in the *Australian Law Journal* in 1980 by Mr W.F. Ormiston, QC, later a judge of the Supreme Court of Victoria, deprecating the power granted to the court to relieve from the consequences of failure to duly execute a will.

The New South Wales Law Reform Commission gave consideration to the introduction in that State of a similar measure to section 12(2), and the New South Wales Law Reform Commission recommended that the basic South Australian measure should be adopted. However, that commission considered that the civil standard of proof was more appropriate than the criminal standard, namely, 'that there can be no reasonable doubt', which had been introduced into section 12(2). The commission noted that decisions in South Australia did not disclose any difficulty with the particular issue, but it considered it was anomalous to impose a criminal standard of proof, where for all other issues of validity of a will—for example, the testamentary capacity of the testator, the testamentary intention in properly executed wills—the civil standard of proof applied. The commission pointed out that that was not to suggest that the court should not carefully scrutinise the evidence on such an important issue. Rather, its view was that the standard of proof approximating that for rectification of documents should be considered. So, New South Wales adopted the civil standard.

In 1994, South Australia also fell into line with the developments elsewhere, and new section 12(2) was introduced. That section then provided:

> Subject to this Act, if the court is satisfied that a document that has not been executed with the formalities required by this Act expresses testamentary intentions of a deceased person, the document will be admitted to probate as a will of the deceased person.

This measure, which is the current measure and which is proposed to be amended by this Bill, has been considered on a number of occasions by the courts. A New South Wales decision concerning draft wills is illustrative of some of the problems that arise; for example, the case of the *Estate of Springfield*, decided in 1991 and reported in volume 23 of the New South Wales Law Reports (page 535), concerned a deceased person who was gravely ill in hospital and a business adviser, and the business adviser brought with him a stationer's will form. The deceased told his adviser what he wanted in his will. The adviser took down notes from which to draw up the will but, before he actually drew it up and before the document was signed, the deceased died. An application was then made to have the unsigned notes admitted to probate, but that application was rejected.

However, in not all cases have instructions for a will or drafts been rejected under this measure. There was the case of *Vauk*, decided in 1986 and reported in volume 41 of the South Australian State Reports (page 242). That was a case where an unsigned draft, which the deceased had never seen, was admitted to probate under the old section 12(2).The facts of the case were that the deceased had visited the Public Trustee's Office and given instructions to an officer to prepare a new will. The instructions were written down by the officer but not signed by the deceased. It was arranged that the will be prepared and ready for execution on a specified date, and a draft will in accordance with those instructions was prepared. But the day before the appointment, the deceased committed suicide in his car. On the car seat underneath his head was found a piece of paper which was only partially legible but on which appeared words which referred to the will at the Public Trustee's Office.

This note plus the fact that the draft was consistent with pencilled alterations to an earlier will satisfied Mr Justice Legoe who heard the case that there could be no reasonable doubt that the deceased intended the document prepared by the Public Trustee to constitute the will, notwithstanding the fact that the testator had never signed or sighted the particular document which was admitted to probate.

In practice, I well recall cases where, in the case of husband and wife wills, owing to some distraction when they visited the solicitor's office for the purpose of signing the will, the husband signed the wife's will and the wife signed the husband's will—a mistake not discovered until some years later when one party died. One of the big issues in the early days was whether or not the document which had not been signed by, let us say, the husband could be admitted to probate as his will, when he had signed an entirely different document.

There was early *dicta* in a number of cases to the effect that the court could only admit to probate a document which had been sighted and signed in some place by the testator. That notion was finally laid to rest by Mr Justice White in the case of *re Blakely*, decided in 1983 and reported in volume 32 of the South Australian State Reports (page 473). That case concerned the fact situation which I earlier described—a husband and wife mistakenly signing each other's comple-

mentary wills—and, in that case, Justice White held that there could be no reasonable doubt that the husband intended the document inadvertently signed by his wife to constitute his last will. His Honour was not prepared to follow the earlier *dicta* to the effect that the document itself had to be signed by the person whose will it was. That laid to rest one of the difficulties which had arisen under the old section 12(2).

Now, for the third time, section 12(2) is to be amended in the manner suggested in clause 22 of the Bill before the Council. This amendment arises as I am advised because of arguments which have been addressed in court to the effect that the current section enables one to argue that the 1994 amendments remove the requirement to prove that the deceased intended the document to be his or her will. As I mentioned, a couple of the cases concerning drafts and the husband and wife type situation where the wrong document was signed all indicate on the earlier version of section 12(2) that there was no necessity to prove that the particular document signed by the testator was his or her will.

However, I have been advised by the Attorney, and I am grateful to him, of a decision of Justice Mullighan in the estate of McCartney, an unreported decision in 1996, in which the judge referred to the argument to the effect that the amendment in 1994 rendered it unnecessary to prove that the deceased intended the document to be his or her will. On that occasion, the judge said that he considered it was unnecessary to consider the argument because of the facts of the particular case. The Attorney has advised that, whilst the interpretation of section 12(2) as introduced in 1994 has not been settled, this proposed amendment is designed to make it clear that the deceased must intend the document to be his or her will.

It is a matter for some regret that an amendment made as recently as 1994 should now be altered again. I do not believe that the provisions of section 12(2) as introduced in 1994 contain the vice suggested in the argument to Justice Mullighan to which I have just referred. However, I understand that the measure is being adopted out of an abundance of caution, and it is appropriate that any possibility of doubt be removed so that parties do not have to go through the process of litigation to have these issues resolved. Accordingly, I support this amendment to what I regard as a very significant part of South Australia's contribution to the advancement of the law relating to wills. I support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indication of support for the second reading of the Bill. Like the Hon. Robert Lawson, I do not like to see amendments made to a provision when it has only recently been amended. However, as he indicated, the amendment to the Wills Act provision is proposed out of an abundance of caution. It still provides the significant reform that was achieved in 1994 but puts it beyond doubt that the court must be satisfied that the deceased person intended to make a will or codicil to give effect to the testamentary intentions expressed in a particular document. Notwithstanding that concern, I am pleased that he and others have indicated their general support for the Bill and in particular for that amendment.

The Hon. Carolyn Pickles indicated that I had had some communications with Mr Michael Atkinson, the shadow Attorney-General, and for the sake of the record I will indicate to the Council the areas upon which some clarification was provided.

The first is in relation to Public Trustee. The Bill amends section 29. I indicated to Mr Atkinson that the purpose of the amendment to that section is expressly to provide that Public Trustee may deduct fees, commissions and expenses from money deposited with Public Trustee for investment purposes. The amendment is of a technical nature. Public Trustee already has the power to make these deductions, principally because she is acting as a trustee, but the amendment is a way of clarification, where there is an express provision in this regard for State moneys. It is appropriate that Public Trustee should be able to charge for outgoings incurred in providing commercial investment services, particularly where it competes with the private sector. That is an essential ingredient of competition policy, and I have no difficulty with Public Trustee being required to compete on a level playing field with other bodies that offer trustee and investment services.

The second point that Mr Michael Atkinson raised was in relation to the Criminal Law Consolidation Act amendment, which allows the Court of Criminal Appeal to increase the non-parole period when shortening the sentence on appeal, thereby allowing the court to review the sentence as a whole and to impose the sentence which it considers to be appropriate in all the circumstances. While the Court of Criminal Appeal may be of the opinion that the sentencing court erred seriously in setting the head sentence, it may also take the view that the court erred in setting the balance between the head sentence and the non-parole period.

It should be recognised that the Court of Criminal Appeal has a definite and proper role in setting guidelines for lower courts to follow in setting all components of sentence, and I take the view that it should not be artificially constrained in doing so.

The possible alternative view that the minimum period of actual custody should not be increased as a result of an appeal is one which I note, but I have no difficulty with the court having this power in a case where it considers the non-parole period to be inappropriately low according to ordinary sentencing principles. After all, it is a court of criminal appeal, and I think that the possibility of an inappropriately low non-parole period ought to be capable of being addressed by the Court of Criminal Appeal when the matter is subject to review by that court.

The only other matter which was raised was in relation to State records. The Hon. Carolyn Pickles asked on what grounds the court could prevent a record being transferred from the Supreme Court, for example, to the State Records Office. I suppose there are a number of possibilities, but it should be recognised that by statute the courts are independent of Government.

A concern was raised on the principle that an Officer of the Executive arm of Government would be able to give the court a direction in relation to the way in which it kept its records. It might be argued that that impinged upon judicial independence and, therefore, in consultation with the Chief Justice in particular, as a Government we decided that a special framework ought to be in place for dealing with court records so the court's authority was not undermined by the role of the State Records officer. As a result, a nominee of the Courts Administration Authority will be on the relevant committee which oversees the operation of the Act.

In addition, we have provided that the court may decline to deliver records to the State Records officer in circumstances which the court deemed to be appropriate. For example, a file which may go back a number of years and

which has had an on-off history might be revived by one of the parties at some time in the future, and it may be quite inappropriate for that to be delivered. There may be other dormant files which potentially might be revived at some time in the future. Again, there may be good reasons why they might be required to remain under the court's authority.

A continuing suppression order may have been made, and it would be inappropriate for that to be put into the archives. It may be that there is a record of sexual offence where the statute itself provides that information about the identity of the victim should not be disclosed. These are all good reasons why the courts may decide to exercise a discretion and say that these files cannot be delivered to the State Records Office. That answers all the questions that were raised. Again, I thank all members for their indications of support for the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 22 passed.

New Part 14.

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

After Part 13—Insert new part as follows:

PART 14

AMENDMENT OF YOUTH COURT ACT 1993

Amendment of s.9—The Court's judiciary

23. Section 9 of the principal Act is amended by inserting in subsection (9) 'or for a series of terms over a period not exceeding 10 years' after '10 years'.

This amends the Youth Court Act 1993. The amendment is of a technical nature. Currently a first member of the Youth Court's principal judiciary may be appointed for a term of up to 10 years. The amendment permits a first member to be appointed for a series of terms in aggregate not exceeding 10 years, that is, where the initial appointment was for a period of less than 10 years.

New Part inserted.

Long title.

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

Page 1, line 11—Leave out 'and the Wills Act 1936' and insert: ', the Wills Act 1936 and the Youth Court Act 1993.'

Long title passed.

Bill read a third time and passed.

VALUATION OF LAND (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 May. Page 798.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their contributions to the Bill and for their indications of support for the second reading. The Hon. Mr Holloway first asked for a copy of the report in relation to the Notional Values Working Party. I have not been provided with a copy of that. I am somewhat embarrassed that I have not even an answer on that part of the matter raised by the honourable member, but I undertake to ensure that there is a response to it. I do not necessarily accept his proposition as a matter of principle that where a report is referred to in the second reading speech it automatically should be provided. However, I understand the argument which he is putting and I will ensure that the matter is raised with the Minister responsible for the administration of the Act, that a reply is forwarded to him and, if it is possible to provide the report, ensure that that will also be done, and hopefully we can get that issue resolved quickly.

It was unfortunate that in his second reading contribution the Hon. Mr Holloway made reference to the member for Mawson in if not expressed then implied criticism, suggesting that he would benefit from the passing of this Bill, I suppose, hinting that because he chaired this committee he would somehow derive a benefit from the Bill which was enacted. I have not raised the issue with the member for Mawson but, first, I would defend his honour because he would not have entered into the task if there was a potential for conflict of interest and, whilst I know little about his personal affairs, my understanding is that, whilst he does own broad acre property, it is so far south in the Fleurieu Peninsula that it could not in any way be affected by the operation of the provisions in this Bill.

That is not stated categorically and without equivocation but mainly from my presumption of what might be the effect of property values on his own property so far away from the influence of metropolitan or suburban Adelaide and its expansion. I think it was unfortunate for that observation to be made by the honourable member and for him to colour the debate in a way which I believe is unwarranted.

The honourable member does make some references to the limited period for objection and indicates that he agrees with that. He places a great deal of emphasis upon putting in some special provisions for the office of Valuer-General and, in effect, to elevate the Valuer-General to the status of Ombudsman or the Electoral Commissioner, or perhaps in the future even akin to the Auditor-General when, in fact, there is no similarity between the public, administrative and other responsibilities which are carried by those statutory office holders.

One only needs to look at the Electoral Commissioner to recognise that he has two very important responsibilities and to see why he cannot be removed except by resolution of both Houses. Now he is appointed by the Parliament on the recommendation of the Statutory Officers Committee. He first has a responsibility for running State elections and it is critically important that the person who holds that office be not only above criticism but be seen to be above criticism. The second function of the Electoral Commissioner is to participate as a member of the Electoral Districts Boundaries Commission. They are two very important functions basic to the fair and unbiased operation of our electoral system.

If one looks at the Ombudsman, again one can see some special obligations. The Ombudsman again cannot be removed, except by a resolution of both Houses of Parliament and, in addition, now is appointed by the Parliament on the recommendation of the Statutory Officers Committee. The Ombudsman is so appointed and has that protection because the Ombudsman exercises a critical function of examining the administrative acts of Executive Government and making a report to the Parliament as well as requiring corrections or other action by officers of Executive Government. For that reason it is important that the Ombudsman be protected from instant dismissal or intimidation.

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: I am not suggesting that. If the honourable member is going to be mischievous and suggest that that therefore implies that the Valuer-General will be the subject of intimidation, he has got it wrong. I am not saying that. I am putting to the Council why we have special provisions for the Ombudsman and the Electoral Commissioner.

The Hon. Ian Gilfillan: What is the current position of the Valuer-General?

The Hon. K.T. GRIFFIN: The current position of the Valuer General is that he is appointed by the Executive arm of Government and has no special protection. The vacancy has not been filled for a number of years.

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: I do not know why that is in there, but I will check it and get back.

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: I will take it on notice and check it so that we can deal with it in Committee. In the earlier days of the colony and the State the Valuer-General may have had some special responsibilities, but now the Valuer-General has basically only the obligation to provide a valuation of the State, which is the basis upon which the land tax, other than land tax on the principal place of residence, is established and council rated. In every other jurisdiction, I am told, the Valuer-General is an officer of the Executive Government.

If we get to the point of the Valuer-General's being a statutory officer appointed in the same manner as the Electoral Commissioner and the Ombudsman, in the current environment of Government, public policy and public administration you have to ask similar questions about the Commissioner for Equal Opportunity and other officers who might be named in legislation. For those reasons the Government is not supportive of the amendment that will be moved in Committee by the Hon. Paul Holloway; but apart from that we indicate our appreciation for support for the second reading.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. P. HOLLOWAY: I move:

Page 1, after line 21—Insert:

(a1) by striking out from subsection (1) 'by notice published in the *Gazette*' and substituting 'on a recommendation made by resolution of both Houses of Parliament';

(a2) by inserting after subsection (1) the following subsection:

(1a) On a vacancy occurring in the office of Valuer-General, the matter of inquiring into and reporting on a suitable person for appointment to the vacant office is referred by force of this subsection to the Statutory Officers Committee established under the Parliamentary Committees Act 1991,;

The two amendments relate to the appointment of the Valuer-General. The first amendment provides that the Valuer-General should be appointed by the Statutory Officers Committee established under the Parliament, so I will deal with it first. The Attorney-General has just tried to draw a distinction between the position of Valuer-General and other office holders such as the Ombudsman and the Electoral Commissioner. I do not agree with his distinction. During the second reading debate on the Bill I read out an extract from the original explanation of the Government back in 1971 when the Bill was introduced. It was introduced by the Hon. Bert Shard, then Chief Secretary, who stated:

This Bill makes him [the Valuer-General] an officer responsible to Parliament and frees him from any suggestion of political bias.

That is the question. The Valuer-General has to value all of the property within the State. Upon his valuation are raised hundreds of millions of dollars in taxation, stamp duties, sewerage rates, local government rates, and so on. So it is important that the Valuer-General should be above the political process and not subject to any pressure in any way as to the exercise of his judgment. There are hundreds of millions of dollars of revenue to Government, both State and local, at stake.

It is important that we recognise that with the appointment of this position. As I indicated when debating this Bill last, when the budget was brought down last week we note that the Government has decided to extend the property franchise, notwithstanding that the now Government back in 1992 vigorously opposed the water rating system at the time, which for 100 years previously had been based on a property tax. The then Opposition was very vocal and outspoken at the time. Subsequently we have changed the water rating system to a user-pays system, but nevertheless we now have the Government in its most recent budget going back to a property-based tax to fund emergency services. The merits of that will be debated in this place at the appropriate time, but if successful it will again extend the importance of the valuation that this Government does as a taxing base.

The Opposition believes that we should recognise the independence of the position in two ways: first, make the appointment of the Valuer-General subject to the Statutory Officers Committee of Parliament in the way other officers are appointed; and, secondly, reject the amendment in the Bill which seeks to make it a five year contract appointment instead of an appointment until retirement. I support the amendment.

The Hon. K.T. GRIFFIN: Concerning the question raised by the Hon. Mr Gilfillan during the second reading stage, I acknowledge that there is a provision in the Act whereby the Valuer-General is appointed until he or she attains the age of 65 years and whereby he or she may be removed from office upon the presentation of an address by both Houses of Parliament praying for that person's removal from office, and a provision for suspension is included in section 9 of the principal Act.

I confess that I am not familiar with all the reasons why the then Chief Secretary would have wanted to move for this, except that perhaps then there was a much heavier dependence upon property for taxation purposes and less opportunity for review. The Valuation of Land Act contains a number of provisions which I think were enacted subsequent to the 1971 amendment by the then Chief Secretary and which provide for a review of the valuations. So it is not as though the valuations stand for all time without challenge: any Valuer-General's decision is subject to review in relation to a particular piece of real estate.

Although there is that current provision in section 9, the Government has taken the view that it is now time to rethink the rationale for appointment of the Valuer-General under the terms and conditions specified in the Act and to move to something which is more flexible, keeping in mind that there are adequate opportunities for independent review of valuations and that valuation principles are well set out in the Act, and that, apart from the normal mechanisms for a review provided in the Valuation of Land Act, judicial review applies to the work undertaken by the Valuer-General. The Government opposes the amendment proposed by the Hon. Mr Holloway.

The Hon. IAN GILFILLAN: I support the amendment. I think that the intention expressed in the Act is quite clear and I can see no reason to depart from it in such a dramatic way. I do not think the Attorney-General should be too sensitive about it. It is common knowledge that people are appointed to positions by the Government of the day because they are favoured by the Government of the day for that position.

The Hon. K.T. Griffin: Some may be, but all aren't.

The Hon. IAN GILFILLAN: They certainly would not be appointed because they are out of favour with the Government of the day. If one takes the reverse argument one can see the logic of my comment. It appears to me that the person who is qualified to be Valuer-General will be competent to be Valuer-General for a reasonably extended term. It is not as though they burn out over five years. It is a task that I think one could reasonably expect to fulfil until reaching retirement age. Also, as I understand it, the provision in the current Act will remain, that both Houses can remove the Valuer-General, for whatever reason. We support the amendment.

I suspect that a student of *Hansard* studying my second reading speech would have noted my concern, from the LGA, that the valuations of different authorities can be applied retrospectively. I do not recall hearing the Attorney in his concluding remarks address that matter. He can correct me if I am wrong, but if I am correct—

The Hon. K.T. Griffin: I did not refer to that.

The Hon. IAN GILFILLAN: At the right time can the Attorney address this matter. I am not sure which clause addresses it specifically, except possibly the last one, clause 17. I do not want the Bill to slide out of the Committee stage without this being addressed.

The Hon. T. CROTHERS: I, too, rise to support the amendment. In doing so I think there is some rationale that underpins that which we say. The Attorney-General in his contribution alluded to the fact that the Valuer-General was appointed until the age of 65 years and that such person may only be removed by addresses carried by both Houses of the Parliament, so as to give that person protection under the present Act. He then said that he did not know why the Chief Secretary of the day saw fit to include a provision such as that in the Bill.

I think the historical precedent goes further back than that. It probably goes back to the time of the South Australia Company when land values were not only determined in England but (I seem to recall as part of my historical reading) when, on a number of occasions, the then Secretary for the colonies, Lord Glenelg, overturned the legislative processes of what was then an infant parliamentary Chamber, albeit not with the same power that this one has now, and certainly overturned decisions of the then governing company, which was, of course, the South Australia Company.

Up until recently—certainly until just prior to the Second World War and even after it—much of the property in the square mile of Adelaide was still owned by interests located in the United Kingdom. It may well be that the precedent was that, when this Parliament assumed full responsibility, even before the Statutes of Westminster, when it assumed pretty well full responsibility for its own destiny, whoever was the author responsible for the Act determined to put in place a proposition which in fact had only been neutered by a direct Act of this Parliament, so as to forestall any intervention or interference from the other side of the world. I simply proffer that as as good a piece of rationale as any for that which underpins the present state of the Act and the reference it makes to the Valuer-General's appointment. I support the amendment.

The Hon. P. HOLLOWAY: I make one point in response to the Attorney's earlier comments. The Attorney indicated that we now have, under subsequent changes to the Act, the provision for independent reviews against the Valuer-General's decision. I would suggest that most of those independent reviews would be against high values of assessment by the Valuer-General, because if the Valuer-General assesses your property at a value which you consider too high you will have to pay higher council rates, sewerage rates and so on. It certainly is proffered that we should have some sort of independent review against such processes. Where the real problem and pressure from the Government may come in is if there are people who wish to keep their values low to reduce such taxes and charges. Of course, it is highly unlikely—

The Hon. K.T. Griffin interjecting:

The Hon. P. HOLLOWAY: Who will ask for an independent review if pressure is brought to bear on a Valuer-General to reduce values to reduce the cross people have to bear?

The Hon. K.T. Griffin interjecting:

The Hon. P. HOLLOWAY: Well, maybe so, but earlier Parliaments have decided that they will ensure that Valuers-General are absolutely free from any sort of political pressure by making the appointment a life appointment and by providing that the Valuer-General may be removed only by an address of both Houses. Here the Government seeks to turn that into a five year term. Clearly, the Valuer-General is much more likely to be subject to the pressure of the Government of the day, particularly if that person's term is nearing the end. The most important point of the Opposition's amendment is that this appointment should be restored to an appointment until retirement. The second part of it—to make that appointment subject to the relevant committee of Parliament, the Statutory Officers Committee—is perhaps less important. On behalf of the Opposition, the point I want to make is that we believe that, for a position as important as this, we should stay with the wishes of Parliament over the past many years—that the position should be independent and be seen to be independent.

The Hon. K.T. GRIFFIN: The Government does not accept that it is an office which is so important that it requires the protections to which the honourable member referred or that it will, in fact, be open to abuse. The proposition raised by the Hon. Mr Holloway about influence by Government to keep valuations down is bizarre in the extreme. In fact, it is likely to be a very serious criminal offence under the Criminal Law Consolidation Act. However, if the numbers are in favour of the amendment, I indicate that, if it is carried on the voices, I will not be seeking to divide. It will undoubtedly go to conference, and we can resolve the issues there. In terms of the Hon. Mr Gilfillan's matter, I do not have the answer. However, I suggest that, once we have dealt with the amendments, I will then report progress and see whether I can get a reply by tomorrow.

Amendment carried; clause as amended passed.

Clause 4 passed.

Clause 5.

The Hon. P. HOLLOWAY: I move:

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Lines 3 to 7—Leave out all words in these lines after 'by striking out subsection (1)'.

Lines 15 to 24—Leave out all words in these lines.

These amendments flow on from earlier amendments I have already discussed.

Amendments carried; clause as amended passed.

Progress reported; Committee to sit again.

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (COMMENCEMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 May. Page 778.)

The Hon. SANDRA KANCK: It is no secret that the Democrats opposed the original Bill, which set South Australia on course to become part of the national electricity market, and subsequent events, particularly the decision by this Government to sell off ETSA and Optima based at least in part on what it says are the risks of being in the national electricity market, have vindicated our position. The Government's stated reasons for seeking a deferral of the commencement of this legislation is due to what it says are a number of major issues that are still to be resolved by both NEMMCO and the State jurisdictions. However, Parliament has not been provided with any detail at all as to what those major issues are, and I would appreciate it if the Treasurer would elaborate on exactly what those major issues are.

The Hon. Diana Laidlaw interjecting:

The Hon. SANDRA KANCK: Yes, that's right. The second reading explanation refers to a number of major issues; it does not say what they are. There are a number of factors unique to the South Australian electricity market which mean that it does not operate on a level playing field. There is the fact that it does not generate at the same low level of cost as some States, although when I wrote a letter to the Treasurer asking for some information about how much higher our cost of generation is compared to that of other States, he was unable to quantify this for me. Certainly, part of the reason must be that, unlike New South Wales and Victoria, the coal that we use, which comes from Leigh Creek, is very low grade and, although it is low grade also in parts of Victoria, its power stations are located very close to the mines, so it does not have the problem of transporting the coal for great distances. The other factor that makes South Australia a little different from Victoria and New South Wales is that our population is both smaller and more scattered than the interstate examples, so it can never enjoy the same economies of scale.

As I said, when South Australia enters the national electricity market, it will not be coming in as part of a level playing field. One of the factors that many people do not recognise is that, once the national electricity market (NEM) is up and running, South Australia will have to pay for transmission losses for any electricity that comes from interstate, with losses ranging from 17 to 25 per cent. So what might look at present to be fairly cheap electricity is unlikely to be like that in the future. Given all this, the Democrats are still of the view that it would have been better for us not to have been in the national electricity market in the first place. South Australia needs to focus on increasing generating capacity within this State because, without local generation, South Australia will always be at a disadvantage.

The purpose of NEM is to restructure the national electricity industry from a number of State-based vertically integrated Government owned and run monopolies to a very large number of desegregated electricity firms competing in a nationally competitive market.

One of the real ironies that I have discovered in looking at the question of whether or not ETSA or Optima should be sold was really driven home to me when I attended a Queensland power conference early in May. One of the speakers, Steven McRae, who is the CEO of Energex, which is a retailing firm in Queensland, gave some quite startling figures. In order for a retailing company to remain viable in the UK, it needs a customer base of five million people, which is roughly a quarter of Australia's population. In the USA, such a company needs 10 million people for a sustainable customer base and, ultimately, it could be as high as 20 million, and that is the whole of Australia.

If the US model were to be adopted in Australia, it would mean that Australia would have one retailer for the whole nation, and that is very ironic, given that we are in the process of disaggregation. Although we have not completed our disaggregation here, the people in the industry are talking about re-aggregation on that scale. It is quite frightening.

The supply of electricity in the NEM will be determined by market price rather than long-term strategies, which is a cause of real concern. Business operators who are aware of the implications of the market understand that, in South Australia, we could be worse off in many ways. One such way could be an increase in price. Most people did not think that the NEM would lead to a price increase, but from speaking to people over the last three months about the Victorian situation I have found that the generating companies are bidding into the pool at zero. Although they get the highest price that is bid at any half-hour period, they are not meeting the cost of generating electricity.

As I have explored this issue with various people both inside and outside the industry, I have put to them that in the short term possibly, but definitely in the longer term, one of those generating companies will fall over because they will not be able to sustain those losses. The scenario that I have put to many people is that, at the moment that happens, the other generating companies which have also been sustaining losses will jack up their prices overnight. When that happens we will be part of that national market and we, too, will have to bear the cost of increased prices. It is foolish to believe that the national market will maintain the artificially low prices that one observes in Victoria.

Another of the concerns that we have about the national electricity market as it currently operates in NEM 1 is the increased demand for electricity. When there is a promise of short-term price reductions, all the signals are wrong about conserving energy, and it means that there will be an increased demand for electricity without any long-term planning. This effect of disaggregation can be seen by events in Victoria. In order to get their market advantage established for when all the gloves come off in the year 2000, retail companies are offering airconditioners to their customers with the promise that, if a customer buys an airconditioner from them, they will give that customer $300 worth of free electricity. There is no relationship between what the retailers are saying will be provided to their customers and what the generating companies are supplying. All the normal signals that we used to see in a market between supply and demand have been removed in NEM 1.

South Australia already experiences a shortage of generated power at peak times. It happens only once or twice a year, but there is a growth in demand for electricity in South Australia of between 1 and 2 per cent per annum. Without those signals, proper planning is not occurring. When the generating company is disaggregated from the company that sells the electricity, the feedback mechanisms are not in place. NEM does not encourage prudent planning because the decisions are based on economics, and they look no further forward than one or two years.

The NEM has been going to happen for a long time but something always seems to get in the way. It has been suggested to me that part of the reason for the present delay is that engineers are dragging the chain. The information that is required to get the market up and running is very technical,

and it is only engineers who can provide the information to allow the market to become fully functional. As the Democrats happen to think that the NEM is not all that it is cracked up to be, we are very happy that that is occurring.

I invite members to consider some of the costs that have been incurred already by taxpayers over the past few years as a consequence of our going down this path of becoming part of the national electricity market. An enormous number of different statutory bodies have been set up. There is NECA, NEMMCO, the ACCC (it existed in a different form but it now has a life of its own that is based on competition policy), and, similarly, the NCC. There have been an untold number of conferences, of which I have attended one, the cost of which taxpayers have borne the brunt of as company representatives pass it on as a tax claim.

A number of things are happening in the market at present that add to taxpayers' expense. For example, the National Electricity Code Administrator (NECA) will shortly hold reviews into capacity payments, the level of VoLL (which is Volume of Lost Load), inter-regional hedges, ancillary services, demand side management, regions, and network service pricing. All those reviews, as well as the reviews that are conducted by NEMMCO, the ACCC and the NCC, require responses from industry. If members look at the web sites of those organisations, they will see the extensive submissions that have been produced by various bodies, be they State Governments or power companies, that are interested in the issue. By looking at these web sites, members can get some sense of how complicated this is, and how much time, energy and money is being expended into trying to get this all sorted out.

When I spoke to different people in the industry at the Queensland power conference, I discovered that the recurring message was that no-one knows what the market will look like in five years' time. I find it very concerning that this State is plunging into this activity without knowing what it is getting itself into. That is extraordinarily concerning.

In announcing its plans to sell ETSA and Optima, the Government claimed that it was impossible for South Australia not to go ahead with its involvement in the NEM, and the Opposition agreed. When we debated the national electricity Bill in 1996, the Opposition agreed with the Government for it to be set up, and the magic spell was invoked by the use of the words 'competition payments'. At no stage has anyone entertained the idea that we could decide not to be part of competition policy in regard to our electricity industry.

If we as a State were not involved, what would the Federal Government do? Would it give us less than other States when it came to allocations at budget time each year? Certainly, Western Australia is in that situation and there is no evidence of money being withheld from that State. To my mind this question has not been adequately explored.

The upshot of all this is that the Democrats will support this legislation, because we think anything that can be done to delay the start-up of NEM should get our approval. However, I would say that this State needs a vision and a plan for putting that vision into reality for South Australia's energy needs, and not an ideological reliance on market forces to sort it all out for us.

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

NON-METROPOLITAN RAILWAYS (TRANSFER) (BUILDING AND DEVELOPMENT WORK) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 March. Page 707.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. This Bill involves technical detail resulting from the change of ownership of Australian National. I note that at the time of the transfer of ownership of Australian National to GSR and ASR the State failed to introduce legislation which would enable the new private owners to comply with the Development Act. The State and Commonwealth were exempt from the provisions of the Development Act, and that is why I presume this fact was overlooked during the transfer. No issues or concerns with this Bill have been raised with me. I note the existence of precedents in this area. The Opposition supports the second reading.

The Hon. SANDRA KANCK secured the adjournment of the debate.

ADJOURNMENT

At 5.9 p.m. the Council adjourned until Wednesday 3 June at 2.15 p.m.