LEGISLATIVE COUNCIL

Tuesday 11 August 1998

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

VALUATION OF LAND (MISCELLANEOUS) AMENDMENT BILL

The following recommendations of the conference were reported to the Council:

As to Amendment No. 1:

That the Legislative Council do not further insist on its amendment but makes the following alternative, additional and consequential amendment in lieu thereof:

Clause 3, page 1, after line 23—Insert paragraph as follows:

(c) by striking out from subsection (4) 'Institute of Valuers Incorporated' and substituting 'Property Institute Incorporated or a body prescribed by regulation and has practised as a land valuer (whether in the service of the Government or privately) for a period (whether continuous or in aggregate) of at least five years'.

New clause, page 1, before line 24—Insert new clause as follows:

Insertion of s.6A

3A. The following section is inserted after section 6 of the principal Act:

Independence of Valuer-General

6A. The Valuer-General will, in valuing any land or performing any statutory function as Valuer-General, exercise an independent judgment and not be subject to direction from any person.

Consequential Amendment:

Schedule, page 6, line 17—Leave out the item:

Section 6(4) Insert 'and Land Economists' after 'Australian Institute of Valuers'.

Schedule, page 9, line 4—Leave out 'Insert "and Land Economists" after "Australian Institute of Valuers"' and insert 'Strike out "Institute of Valuers (S.A. Division)" and substitute "Property Institute"'.

and that the House of Assembly agree thereto.

As to Amendment No. 2:

That the Legislative Council do not further insist on its amendment but makes the following amendments in lieu thereof:

Clause 5, page 2, line 4—Leave out 'not exceeding' and insert 'of'.

Clause 5, page 2, line 6—Leave out 'not exceeding' and insert 'of'.

and that the House of Assembly agree thereto.

As to Amendment No. 3:

That the Legislative Council do not further insist on its amendment.

As to Amendment No. 4:

That the Legislative Council do not further insist on its amendment.

POLICE BILL

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

That the sitting of the Council be not suspended during the meeting of the conference.

Motion carried.

POLICE COMPLAINTS AUTHORITY

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the review of the Police Complaints Authority by Mrs Iris Stevens.

Leave granted.

The Hon. K.T. GRIFFIN: On 26 February 1998, I made a ministerial statement in this place and announced that the Crown Solicitor, upon my instructions and with the concurrence of the Police Complaints Authority and the Commissioner of Police, had engaged Mrs Iris Stevens, a retired judge of the District Court, to conduct a review of the operations and processes of the Police Complaints Authority. I tabled a copy of the Crown Solicitor's letter to Mrs Stevens of 26 February 1998, which contains the terms of reference. I also indicated that I hoped to be able to table the report.

The review was prompted by a desire on the part of the Government to address once and for all the criticisms of the Police Complaints Authority and its processes by individual police officers and the Police Association, as well as by the media, which reported those criticisms. The purpose of the review was not to investigate any particular matters but to focus upon the general operations and systems of the PCA office as well as the processes of the South Australian Police relating to the work of the PCA and their interrelationship.

It should be remembered that there is some sensitivity in the way Executive Government deals with bodies such as the Police Complaints Authority, which is an independent statutory body, and the Police Commissioner, who has a special role under the Police Act. That was why Mrs Stevens, a retired District Court judge, was requested to undertake the task. Mrs Stevens has now completed her report. There is no reference in the report to individuals by name and therefore I seek leave to table a copy of Mrs Stevens' report.

Leave granted.

The Hon. K.T. GRIFFIN: While Mrs Stevens in her report does not make specific recommendations, she summarises five main issues which she finds arise from the review, as follows:

1. Whether the authority, the Commissioner and the Internal Investigations Branch should re-examine their procedures in light of the decision in *Casino's* case to achieve strict compliance with the provisions of the Act by ensuring that no procedural steps required by the Act have been omitted and that no procedural steps not sanctioned by the Act have been introduced. *Casino's* case essentially found that there must be strict adherence to the procedures set out in the Act and emphasises the importance of the separate roles of the authority and the Commissioner.

2. Whether the ambiguities in the Act, for example, in relation to the function of making findings of conduct and in relation to assessments, require statutory clarification.

3. Whether the inequities in the Act in relation to the supply to police officers of particulars of the investigation and the opportunity to make submissions ought to be remedied by statutory amendment.

4. Whether the issues relating to the confidentiality of the contents of reports of the results of investigations ought to be clarified by statutory amendment.

5. Whether it would be appropriate to transfer complaints concerning management issues to the Commissioner for managerial action.

In essence, Mrs Stevens does not find major problems with the operation of the scheme but identifies some issues largely relating to process which should be examined and decisions taken as to whether the Act requires amendment or procedures should be modified. Although I have sought preliminary comments on the report from the Commissioner of Police and the Police Complaints Authority, wider consultation must take place and further consideration will need to be given to the issues before the Government determines its position. There is nothing in the report to delay consideration of the two Bills presently in Parliament.

I am able to indicate that there will be a process of consultation with the Commissioner of Police, the Police Complaints Authority, the Police Association and other interested parties with a view to considering the main issues arising from the report and determine what action should be taken on the report and the issues it raises.

QUESTION TIME

WINTER, Mr N.

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Attorney-General a question about law firms engaged by the Government.

Leave granted.

The Hon. CAROLYN PICKLES: Mr Tony Johnson, a senior partner in the law firm of Johnson, Winter and Slattery, has written to the Leader of the Opposition dissociating his firm and himself from a series of three full page advertisements appearing in the *Sunday Mail* and the *Advertiser* in the past week. Those advertisements were authorised by another senior partner of the firm, Mr Nigel Winter. These advertisements, in support of the sale of ETSA, have been placed on behalf of 12 Adelaide businessmen who want to remain anonymous. The advertisements feature personal attacks on the Leader of the Opposition and even mention his children. Mr Tony Johnson's letter to Mr Rann states:

> . . . the advertisements were prepared and placed without any involvement on the part of this firm. Mr Winter does not have authority to make any statements or issue any advertisements on behalf of this firm. We are not one of the parties who authorised the advertisements and we are unaware of the identity of those who did.

The Hon. Mr Rann has today been informed of the identities of several of the people involved and will name them in Parliament next week.

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: He is just saving it up for you, Mr Davis. The advertisements feature the business address of Johnson, Winter and Slattery, a firm which the Opposition has been told is earning hundreds of thousands of dollars acting as consultants on the sale of ETSA. The Opposition has been informed that, despite Mr Johnson's denial of his firm's involvement, the advertisements were prepared in the office of Johnson, Winter and Slattery, with the assistance of Mr Christopher Pyne, the Federal Liberal member for Sturt.

The Opposition has also been informed that both the Premier and the Treasurer personally authorised these advertisements prior to their publication. Indeed, Mr Winter, in a television news interview, said that the Premier was both thankful and supportive of the advertisements.

The Opposition has been informed of criticisms made in April last year by a Supreme Court judge of Mr Winter's evidence while he was a partner with Johnson, Winter and Slattery. The Opposition has been told that the Government was aware of this evidence and criticisms of Mr Winter prior to awarding Johnson, Winter and Slattery a major consultancy for the ETSA sale.

Today's *Advertiser* also reported that Mr Winter, who is campaigning for the position of Liberal Party President, is facing civil action over his role in the liquidation of the Emanuele Group of Companies headed by Adelaide businessman Mr Joe Emanuele. The liquidator for the Emanuele Group of Companies is seeking to recover a sum believed to be more than $5 million from Mr Winter and other defendants. My questions—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: —to the Attorney are:

1. Was the Attorney-General aware of the criticisms of Mr Winter by the Supreme Court's Mr Justice Lander before the ETSA contract was awarded to Johnson, Winter and Slattery and, if not, why not?

2. Does the Attorney-General have confidence in the bona fides and ethical conduct of Mr Winter and did he, as Attorney-General and principal law officer of the State, last Thursday ask Mr Winter to step aside from his campaign for the Liberal Party presidency because of court action to be taken against him for his improper conduct in the Emanuele case?

The Hon. K.T. GRIFFIN: One could have expected, from what was in the newspaper today, that there might be a question or two on this subject. It is important to—

The Hon. P. Holloway: We also expect an answer.

The Hon. K.T. GRIFFIN: You will get answers; I am always happy to give you answers. However, they may not be the answers you want, and you will just to have live with it, won't you, or ask some more questions. I believe that the Legislative Council needs to understand the process that was entered into in relation to the selection of consultants for the ETSA-Optima sale process. It was managed by a steering committee of senior public servants. Advertisements were called in the press publicly, and then the steering committee made an assessment of who would best be able to undertake the work for the various disciplines for which consultancies were required. Recommendations were then made to the Asset Sales Committee of the Cabinet, of which I am a member.

In relation to legal work, both the Premier and I have been quite vocal in the expression of our desire to ensure that South Australian lawyers receive as much work as possible, not just in relation to the ETSA-Optima sale but also in relation to other legal work of Government. That applies equally to other disciplines in respect of which consultancies are called from time to time.

I have always made it well known to this Council, and I will repeat it again, that I believe that South Australian lawyers are the match of any in Australia. They provide a better service and excellent quality work at a cheaper price in a more convenient location than in Sydney or Melbourne. In fact, we are constantly trying to ensure that those businesses which carry on business in South Australia do not rush off to Sydney for legal advice but obtain it in Adelaide, saving themselves a lot of hassle and also guaranteeing that they have more readily accessible and competent advice available to them. So, it is with that—

The Hon. T.G. Roberts interjecting:

The Hon. K.T. GRIFFIN: They all get work; if they want to bid for it and they are good enough, they will get the work. But some of them do not practise in areas for which consultancies are sought. I do not believe that the Hon. Mr Terry Roberts, in mentioning those two firms, understood—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: As far as I am aware, those two firms mentioned by the Hon. Mr Terry Roberts do not deal in some of the big commercial work involving, for

example, asset sales—and I cannot even remember whether or not they were on the list of those who may have tendered for the work. But if they tender and they have competence, they are likely to get work: it is as simple as that. So, it does not matter what people might perceive to be their political persuasion: if they are good enough and honourable enough—as most of them are around Adelaide—they will get the work.

In relation to the ETSA sale, the Crown Solicitor was very much involved. Members have to remember, that under the Treasurer's instructions, no legal work can be done for the State outside the Crown Solicitor's Office without the approval of the Crown Solicitor. He and I both wished to ensure that we had competent advice being provided to the ETSA-Optima sales team, and also that it was predominantly South Australian. As it turned out, because of some of the international perspectives that had to be brought to bear upon the ETSA-Optima sale process, finally, Allens in Sydney was successful in gaining the principal part of the contract—that is, for the more significant parts of the advice—but we wanted to ensure that firms such as Finlaysons and Johnson Winter and Slattery, who did have people who were competent to do the work, also received a significant share of the work. So, the consultancy was awarded to the interstate legal firm (I believe it was only one) and the two Adelaide law firms.

As I recollect, particular people in the two Adelaide law firms were identified as being capable of doing the work. In relation to Johnson Winter and Slattery, my recollection is that Mr Winter was not one of those proposed by the firm as one who would be doing any work in relation to the ETSA-Optima sale. That is my recollection. I will be able to confirm that in due course in a consultation that I will have with my officers. But my recollection is that he was not one of those.

There is another contract in relation to which one of the employees of Johnson, Winter and Slattery has gained some consultancy work for another sale process, but it has been designated to that particular lawyer. That is what we have been doing right across the board. The previous Labor Government did it, too, in relation to a variety of consultancies: it tried to designate not just the firm but particular individuals. So, in relation to Johnson, Winter and Slattery, my recollection is that specific individuals were identified as those who were required to be involved in performing the legal work under this contract. I have no recollection of Mr Winter's name coming up as one of the designated officers in Johnson, Winter and Slattery to undertake work on the ETSA/Optima sale. That is my recollection and understanding, and I can really take it no further than that at the present time.

In relation to the other assertions in the explanation made by the Leader of the Opposition that the Premier authorised the advertisements, that they were prepared in the office of Johnson, Winter and Slattery, I have no knowledge of that. In relation to the civil action involving the Emmanuel Group of companies, I am now aware that there was a judgment by Justice Lander in the Supreme Court in 1997, that aspects of that matter went on appeal to the Full Court, I think in November 1997. I was not aware of it as Attorney-General at the time when this matter was being considered by the Asset Sales Committee of Cabinet. It was subsequently drawn to my attention but, even if it had been drawn to my attention, because it related to one person and because the consultancy in relation to the ETSA/Optima sale was, as I recollect, not with that particular individual, I doubt that I would have been opposing a recommendation that the relevant members of Johnson, Winter and Slattery should be contracted to do some of the legal work if they were the best available to do that work in South Australia. It is always great to be wise with the benefit of hindsight. I merely indicate that to you as I believe I would have seen it at the time.

In relation to the question of Mr Winter's membership of the partnership, my understanding is, but I have no direct knowledge of this, that he has actually retired from the partnership and did so in July 1998, only last month; and, again, as I understand it from information that has come to me only relatively recently, any advertisements, if they were prepared, were certainly not prepared whilst he was a partner. I do not know more than that in relation to those advertisements.

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: I saw the advertisement last week in the newspaper for the first time. I must confess that I do not get into the personal affairs of people like Mr Winter or anyone else. What they want to support or not support is their business: it is not my business, either as Attorney-General or as a member of the Parliament. In terms of whether or not I have confidence in Mr Winter, I barely know the man and I am not prepared to stand up in the Parliament and say unequivocally, 'I have confidence in this person' or unequivocally, 'I have no confidence in that person.' That would be an abuse of the privilege of the Parliament, in my view. I do not come into this place either to blacken people's names or necessarily to praise them.

That is a matter that they can sort out. Where it is a matter which does not in my view impinge upon my area of responsibility, it is not for me to make a statement about Mr Winter and his standing either so far as I am concerned as an individual or as Attorney-General. The third question relates to whether I, as Attorney-General, asked Mr Winter to stand aside. I indicate that as Attorney-General I have asked no-one to stand down from anything. Whether or not I have had a conversation with Mr Winter is my business, and my business alone, and I do not intend to answer that question further.

The Hon. CAROLYN PICKLES: What was the composition of the steering committee mentioned by the Attorney in his answer?

The Hon. K.T. GRIFFIN: My recollection of the steering committee is that it was the Chief Executive Officer of the Department of the Premier and Cabinet, the Under Treasurer, the Crown Solicitor and I think Mr Graham Foreman, Chief Executive Officer of the Department of Administrative and Information Services. I will check that and, if I have not correctly reflected the membership, I will ensure that the Council is informed accordingly.

The Hon. T. CROTHERS: Is the Asset Sales Committee referred to by the Attorney the Cabinet committee in the present State Government that is responsible in the first instance for recommending all sales of State assets, and when was it set up?

The Hon. K.T. GRIFFIN: The Asset Sales Committee of Cabinet was set up earlier this year. In the previous Liberal Government before the election there was another committee, whose exact description I cannot for the moment recall, which had some responsibility in relation to the sale of, for example, the State Bank and some other assets. I am on a lot of Cabinet committees and subcommittees and, on the spur of the moment at least, I cannot remember their precise description. The membership of that committee is the

Premier, the Treasurer, the Attorney-General and the Minister for Government Enterprises. It has general oversight of the responsibility for the sale of Government assets.

GAMBLING

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about the impact of the GST on gambling.

Leave granted.

The Hon. P. HOLLOWAY: On 28 July it was reported that the Federal Government will use the GST to increase the total tax raised from gambling. A 10 per cent GST on bets on all racing codes placed on the TAB would reduce the winning pools for win and place bets from about 86 per cent of invested funds to 76 per cent, and reduce winning pools for trifectas and fourtrellas from 80 per cent to 70 per cent. A 10 per cent GST on the TAB turnover for 1996-97 of $525 million would cost punters $52.5 million. Similarly, a GST would reduce returns to poker machine players by 10 per cent to about 75 per cent. A large reduction in returns to punters could seriously cut turnover on the TAB and poker machines with implications for the racing and hotel industries, and a reduction in revenues to the State Government. My questions to the Treasurer are:

1. Following the Premier's briefing by the Prime Minister yesterday, can the Treasurer confirm that a GST on TAB and poker machine turnover will reduce by 10 per cent winning pools to punters playing the TAB or poker machines?

2. Will the Government cut State taxes on the TAB and poker machines to protect returns to punters?

The Hon. R.I. LUCAS: I guess that the answer to the question will not become apparent until 4 o'clock on Thursday, when I understand that the Prime Minister and the Federal Treasurer will release the taxation package. The honourable member is relying on various press reports. I would advise him to read the press reports from today, because there is a suggestion in the interstate media that the Prime Minister will make special arrangements in relation to gaming and gambling, and undertake to consult further about the GST's possible impact on them.

So I can only suggest to the Deputy Leader that he should have read today's papers rather than last week's papers and he might have been able to update his question. I can provide no detail on what the Treasurer or the Prime Minister intends to do in relation to gambling. It certainly is an important issue and it is a difficult one in relation to how a GST, or a broad-based indirect tax as the Commonwealth would prefer to refer to it, might apply to that particular industry. Until we see the shape, nature and structure of the Commonwealth proposals—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, the Premier might know. I was not there yesterday. I was on the sunny West Coast yesterday.

The Hon. K.T. Griffin interjecting:

The Hon. R.I. LUCAS: Yes, an excellent day. I suspect from the nature of the discussion that I had with the Premier yesterday that that sort of detail was possibly not likely to have been discussed at the particular meeting with Premiers, but not having been there I cannot attest to that personally. All I can suggest is that the honourable member reads today's papers and perhaps updates his question on Thursday after four o'clock.

LOTTERIES

The Hon. T.G. ROBERTS: I seek leave to give a brief explanation before asking the Treasurer a similar question on the impact of a GST on South Australian lotteries.

Leave granted.

Members interjecting:

The PRESIDENT: Order! The honourable gentleman is on his feet.

The Hon. T.G. ROBERTS: It sounds like the betting ring down at Victoria Park across the way. I did listen to the Treasurer's answer to the question from the Hon. Mr Holloway. I do not think the communications to the West Coast were operating too swiftly yesterday, nor was the Treasurer informed of the more recent statements made by the Prime Minister in relation to gambling. This is the place to clarify whether the reports are right or wrong—by asking the Treasurer directly. The question that was raised in my mind in relation to lotteries and gambling generally, which impacts on a lot of the people whom I represent out there in the field, made an impression on me that the situation in relation to GST and as it impacted on lotteries was not negotiable, that it would be collected in the net, and there would be some adjustments necessary for the States to fund the Hospital Fund, which is paid directly out of the lotteries moneys.

In 1996-97 the South Australian Lotteries Commission paid $73 million to the Hospital Fund on the sales of lottery tickets worth $265 million. On these figures, a GST of 10 per cent will increase the cost of lottery tickets to punters by $27 million or cut payments to hospital funds by the same amount. The Federal Government GST could mean a cut to hospital funding that is more than the extra funding the Premier accepted last week under the new Medicare management.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: The honourable member says it is strange that we are asking these questions now. Unless he has not been reading the papers himself, there is a Federal election coming and a major statement is to be made on Thursday by the Government in relation to probably the greatest tax revolution that may be taking place in this country for a long time. My questions are:

1. Given the sensitivity of lottery sales to ticket prices, will a 10 per cent increase in the cost of lottery tickets reduce sales and encourage punters to gamble on other options, such as the Internet, or use SP bookmakers for other purposes?

2. What is the Treasurer doing to protect the funding base for our hospitals and will the Treasurer give a guarantee to make up any cut to the hospitals' funding as a result of the introduction of the GST?—and I am not going to give the Somerset a free plug!

The Hon. R.I. LUCAS: As I said by way of interjection, I think the honourable member will have to be a touch more flexible and deft in his footwork—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: The honourable member did say he was going to amend his question but then he proceeded to read the written question that had been prepared for him. The answer to the honourable member's question and, indeed, any others that might be asked in this brilliant strategy that has been developed by the Leader and others upstairs today to put the Government on the wrong foot in relation to the broad-based indirect tax is exactly the same. I do not know the

detail of the Commonwealth proposals in relation to gambling and the gambling industry. Therefore, perhaps to save the strategy further developing—whether that be in relation to the TAB or the Lotteries Commission, or the next question coming from Ron; it may well be the Casino, bingo, whatever the question—

The Hon. L.H. Davis: I think it will be Labor scratchies!

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: It might be Labor scratchies. Whatever it might happen to be, the answer is exactly the same: wait until 4 o'clock on Thursday.

The Hon. P. HOLLOWAY: As a supplementary question: has the Treasurer made representations to the Federal Government in relation to the effect of a GST on State gaming revenue and, if not, why not?

The Hon. R.I. LUCAS: No, not specifically on the issue of gaming. I have engaged in some discussions with representatives of the gaming industry in South Australia in relation to it. We were prepared to have some discussions with the Federal Treasurer and the Prime Minister on a range of issues, but we did not get to the stage of having—

The Hon. Carolyn Pickles: They didn't want to talk to you.

The Hon. R.I. LUCAS: No, they only spoke to the Premiers—they went to the real movers and shakers rather than just the Treasurers. That discussion occurred yesterday. Certainly, the discussions we had at the end of last year, which was the only detailed discussion we had about the broad-based indirect tax, were more of a general nature and related to all the issues that might relate to that matter and to Federal-State taxation arrangements and income sharing in some way, and did not get down to the detail of the particular industries. Important industries such as gambling, tourism, hospitality, the wine industry and a range of others were not discussed in any detail at the meetings that I attended late last year.

The Hon. M.J. Elliott: They've ignored State impacts, have they?

The Hon. R.I. LUCAS: No; that is a question the honourable member can direct to the Federal Treasurer.

The Hon. M.J. Elliott: They have not talked to you.

The Hon. R.I. LUCAS: They may believe that they can make judgments on State impacts without talking to State Treasurers. That question would be better directed to the Prime Minister and to the Federal Treasurer. The answer is 'No, we have not had any detailed discussions at all in relation to the possible impact on the gambling industry in South Australia.' As I said, the more recent comments made in the media today would appear to indicate that on Thursday the Prime Minister might suggest that the impact in relation to the gambling industry might be left open for further discussions with interested parties before the detail is finally resolved.

DOMESTIC VIOLENCE

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, a question about police training and domestic violence issues.

Leave granted.

The Hon. IAN GILFILLAN: Regrettably, domestic violence is all too common throughout all sectors of our society and in May this year I communicated with the Minister attempting to get information about training and the Government's attitude to the matter. In his letter the Minister says:

> Domestic violence is recognised as one of society's most intolerable problems and the Government's domestic violence policy sets out comprehensive measures to combat domestic violence and to protect the victims of such acts of violence.

That, as everyone would agree, is a very worthy aim. There has been improvement and comprehensive strategies are now in place across agencies to address domestic violence. These days educators, social workers, health and housing officers, as well as police, are all playing important roles either in trying to prevent domestic violence or dealing with the consequences. Acknowledging that there have been improvements, the fact is there are still far too many incidents of domestic violence and it has been put to me that the attitude of some in the police force has been inadequate and, at times, downright negligent. Where police were reluctant previously, they are encouraged to take part in some positive and productive way, and I quote the report:

> Just another domestic; now they do provide appropriate respect, protection and assistance to domestic violence survivors, as well as apprehend and prosecute offenders.

But, on the other side, there are still serving officers who carry the old attitudes, and a couple of what I describe as horror stories have been reported to me as incidents of domestic disputes. Apparently, several police officers stood back and witnessed but took no action as men, in one case, attacked and partly demolished a fibro house and, in another case, took a sledgehammer to a car, in both cases with ex-partners and children inside. Perhaps they believed that the men in these cases had the right to do those things.

On 4 August this year, a telephone complaint was made to Elizabeth Police Station. The following report was provided by a person from the Northern Area Women's and Children's Shelter:

> On the evening of Tuesday 4 August this year, a woman was tricked into going (from the shelter) to a friend's house, where her ex confronted her with a knife and demanded she leave her son, which she did. He was on bail for assaulting her (part of bail conditions were that he not come near her). She reported it to Christies Beach Police Station (where previous assault had been handled). They referred her to Elizabeth (nearer to her) but neither police station would take action, despite (a) the knife or (b) the breach of bail conditions. The next day the professionally trained officers in the Family Violence Unit stepped in and took action.

According to the most recent Police Complaints Authority report, the incidence of complaints of failing to perform duty in connection with domestic disputes and restraining orders increased by 89 per cent in 1996-97 (the latest figures to which I could get access), an increase from 28 formal complaints to 53. This is a big increase and it worries me; maybe there is a return to the old situation of 'stand back and let it happen'. They can play and should play police—

The PRESIDENT: Order! Is the honourable member getting close to asking a question?

The Hon. IAN GILFILLAN: Very close, Sir.

The PRESIDENT: There has been a lot of debate and some opinion in the preamble so far and, with respect, I ask the honourable member to wind up the explanation fairly soon.

The Hon. IAN GILFILLAN: It is unfortunate that whatever opinions I have are shared by a lot of people in the community who have been victims, so I make no apology for that. A five day course is run by Sergeant Anne Prestwood

of the police department. I have been told that many police who attend this course have expected to have an easy five days away from their normal job but over the week have become genuinely shocked into rethinking their own attitudes to domestic violence and have become much better police because of it.

However, the statistics are that attendance is merely voluntary: only about 60 police each year attend this course and 87 per cent of serving police have not attended and, because only 60 can undertake it each year, this percentage is not likely to reduce substantially. The course is so poorly funded that domestic violence survivors who address the police cannot be paid for their attendance. Officers can be referred to this course for training where police responses to domestic violence are considered inappropriate but, despite the huge jump in the number of complaints in this area, only two individuals have ever been identified and referred to training. I therefore ask the Minister:

1. Why is police training in the area of domestic violence given such a low priority?

2. What is the Government doing to address the big jump in complaints about police failing to perform duty in regard to domestic violence?

The Hon. K.T. GRIFFIN: Some aspects of that question will, quite obviously, have to be referred to the Minister for Police and from him onto the Commissioner to get some detailed responses. But it is appropriate that I make one or two observations, because the Government has a concern that there is not an attitude among our law enforcement officers that, when they go to a scene that involves domestic violence, they take a hands-off approach and say, 'It is just another domestic.' That, of course, used to be the perception some years ago, but I had thought that was changing and I believe that the attitude, certainly on the part of a lot of officers, is changing. Within the police there is the Domestic Violence Unit, the Victim Support Unit and a range of services designed to ensure that there is an appropriate and sensitive response to domestic violence incidents.

If the honourable member can cite specific examples of where he or his constituents allege that there has been an improper or an inadequate reaction on the part of police, I would welcome that information being provided so that it could be examined. As I say, we are endeavouring all the time to ensure that domestic violence is dealt with appropriately. It is now clearly a crime. That is witnessed by the fact that this Government, and I in particular, introduced in the first term of government a domestic violence Bill (which is now an Act). This legislation places special emphasis upon assaults which occur in the context of a domestic dispute and makes them a minor indictable offence.

We have reviewed the restraining orders legislation. In that regard, I am not aware why there may be an increase in the number of restraining orders. It may be that we have made them more accessible or that we have made sure that the police are much more aware of the availability of telephone restraining orders. It may be that, in relation to children, mandatory notification of child abuse, which is frequently a manifestation of domestic violence, is properly administered.

In addition, we have the ministerial forum for the prevention of domestic violence which includes, I think, five or six Ministers all directly involved with the responsibility in one way or another for dealing with issues relating to domestic violence, because we want the highest level of attention to be given to issues on a coordinated basis across the Government. There is also the national domestic violence summit in which we are playing a key role as well as the Domestic Violence Unit in the Department of Human Services. So, across Government there is a keen focus not only on helping victims of domestic violence but on the prevention of domestic violence because, in the longer term, if we cannot do something constructive about prevention, it will not help those who ultimately become victims or their families.

I understand what the honourable member is focusing upon—and that is essentially the police—but I want to ensure that that is seen within the broader context of what is happening across Government and the State. In respect of the specific issues about the police which I have not been able to answer, I will endeavour to obtain some answers for the honourable member and bring back a reply.

TOWNSEND HOUSE

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Disability Services a question about Townsend House.

Leave granted.

The Hon. J.S.L. DAWKINS: Recently, the *Today Tonight* television program included an item about Townsend House at Brighton. The program suggested that Townsend House was discontinuing its vacation and weekend accommodation service for children with disabilities. It was suggested that this was occurring because of Government cuts. Will the Minister say whether those suggestions are correct and is he examining the issues raised in that program?

The Hon. R.D. LAWSON: I did see the television program in question and I thought that it contained two aspects, one of which was positive and the other negative. The positive aspect of the program was that it highlighted the need for respite services for parents of children with a disability. I believe that, in highlighting that important need and spreading to the wider community a better understanding of it, the program served a good purpose. However, the general thrust of the program was that Townsend House was closing down a respite service as a result of cuts by the Government. That was an entirely false impression.

I should really begin addressing that question by applauding Townsend House, which has for a long time provided a very good service, especially for blind children, as they were originally called; they are now called children with sensory disability. Townsend House has had a residential and school facility on its campus which have served successive generations of this State extremely well. In addition to that service it also provided respite services for a number of years in a facility called Wade Cottage. Wade Cottage provided 24 hour care to children with sensory disability in a five bed facility that was established in 1986. It was not funded by Government at all but was reliant upon fund raising and fees from parents. The fees for overnight accommodation at facilities of this kind are considerable because of the high degree of labour required. The fee in Wade House was $150 a night. Townsend House has been very successful in its fund raising over the years because that organisation enjoys a great degree of goodwill in our community.

In May 1996 Townsend House made a submission to Government for about $250 000 to provide respite for 32 families, but the cost of the proposal that Townsend House put forward on that occasion was some $216 per bed night. The sensory options coordination people examined this proposal closely but it was felt that this option was too

expensive. We are examining and adopting many different community-based approaches for respite rather than centre or institutional based. For example, using families, using workers to come in and baby-sit children with disabilities, and taking groups of children on holiday camps and the like. A number of them are using facilities that are used by schools and church and other groups. That type of respite care is very successful and very popular with clients and families and is invariably not as expensive as the centre based services. Townsend House did not pursue that option at that time.

Last year Townsend House expanded its services to include not only children with sensory disability but those with multiple disabilities, including those with intellectual disabilities. This was looking for further opportunities to ensure that the very good facilities as Townsend House were used by the wider community. But, ultimately, the board of Townsend House decided it was unable to raise sufficient funds to maintain the service and it decided that it would discontinue it in July of this year.

So, the decision which the television program suggested was caused by Government cuts was in fact not caused by that at all but was a decision made by the board. However, I am concerned to ensure that all families who had been using the Wade Cottage service have other appropriate services available to them. Officers of the Disability Services Office are presently in discussion with Townsend House to ensure that we can examine all possibilities for collaborative arrangements which will use the facilities and clients of Townsend House and which will ensure that all who require appropriate respite have it made available to them.

SPEED LASER GUNS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General questions about Government public opinion surveys and speed cameras and laser guns.

Leave granted.

The Hon. T.G. CAMERON: Recently I received a reply from the Attorney-General regarding a question on notice asked on 27 May 1998 as to whether the Government had undertaken any public opinion surveys into the perception of the use of speed cameras and laser guns. The Attorney-General replied that he had been advised by the Minister for Police, Correctional Services and Emergency Services that the police had not commissioned any surveys on this issue. Although the South Australia Police have not undertaken any surveys, the Attorney-General was ambivalent in his reply as to whether any other Government department may have done so.

Therefore, my question to the Attorney-General is: has any South Australian State Government department or office at any time, for whatever reason, undertaken a public opinion survey or been part of one into the subject of speed cameras and/or laser guns? If so, how much did each survey cost and will the Government release the results?

The Hon. K.T. GRIFFIN: I may have been ambivalent because that was the way the answer was provided to me. But I may also have been ambivalent because, without checking every Government department and agency, it may not have been possible to give the honourable member the prompt response that I think he received in relation to his question.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: You learn in this place. You also learn how to interpret the questions so that you can answer them. I will refer the matter to the Minister for Police. It may be that, to give the close to unequivocal response that the honourable member wants, we will need to take some time to receive responses from every Government department. I will see what we can do to hurry it up, but it will take some time. I will endeavour to bring back a reply.

FISHING, FIN

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about Thorny Passage fin fish farms.

Leave granted.

The Hon. M.J. ELLIOTT: On 30 June the Environment, Resources and Development Committee of the Parliament reported to this place, its first recommendation being for a one stop shop planning process operating under clear guidelines that spell out assessment processes, formalise the involvement of various agencies and, importantly, use quantifiable criteria. The committee made those recommendations particularly after looking at the fate of proposals for tuna farms near Kangaroo Island. The committee was aware that those farms would be quite close to sea lion colonies, in fact, within four or five kilometres of one of the haul-out sites, and, as such, likely to be rejected; which it ultimately was. Recognising that, the committee wanted to ensure that that sort of thing did not happen again, and therefore made that recommendation.

It has been brought to my attention that there are now applications for fish farms in Thorny Passage on South Australia's west coast. It is worth noting that the Minister for Environment and Heritage has already stated her intention to introduce wilderness protection to the adjoining Lincoln National Park and that the abalone industry has also voiced opposition to fin fish farms because of their impact upon it in that location. The major concern again relates to the fact that there are colonies of sea lions in the near vicinity. I understand that within some five kilometres of Thorny Passage, on Taylor Island, there is a breeding colony of Australian sea lions. The question is: how have we allowed it to happen again so quickly?

Concerns have also been raised about distances from the nearest service centres, the impact on wild fish stocks and the impact on recreational boating—there is an important tourism, recreational yachting industry growing in the area—plus the potential for pollution disruption of the surrounding environment and impact on recreational diving. Many of those concerns were also raised in relation to the Kangaroo Island proposals. My questions to the Minister are:

1. When is a decision expected on this application?

2. Will the Government adopt the first recommendation of the ERD Committee's report on aquaculture and develop quantifiable criteria for assessment of aquaculture sites, for instance, distance from sea lion and seal colonies and haul-out sites?

3. What is the likely impact the fin fish farm plan would have on the existing wild fishery, in this case abalone, and what harm assessment has been made in relation to marine mammal populations?

The Hon. K.T. GRIFFIN: I will refer the honourable member's questions to my colleague and bring back replies.

PERSONAL INFORMATION PRIVACY

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Attorney-General a question about the privacy of personal information.

Leave granted.

The Hon. CARMEL ZOLLO: Privacy of personal information is becoming of increasing concern to many people. As I indicated in Matters of Interest last week, the Victorian Government is proposing two pieces of legislation to deal with the issues of personal information data and electronic commerce. The European Union has legislated for data privacy—

The Hon. M.J. Elliott interjecting:

The Hon. CARMEL ZOLLO: —this is primarily in relation to information technology—to come into force on 25 October this year. This directive effectively means that Australian companies that wish to trade with the European Union will be compelled to provide individual contracts guaranteeing that they will meet European Union standards. The Victorian Government is responding to the need for such legislation for the benefit of the Victorian community and industry. However, I believe that a coordinated national legislative approach is preferable. I ask the Attorney, who may also need to consult the Minister for Information Services:

1. In the light of the action by the Victorian Government and apparent lack of a coordinated national approach by the Federal Government, will the Government pursue its own separate legislation in South Australia?

2. What measures are in place to protect the privacy of South Australians' personal information data handled by EDS?

3. Is EDS subject to South Australian Government Cabinet administrative instruction No.1 of 1989, reissued 30 July 1992, called 'The information privacy principles instructions' and, if not, why not?

4. What other specific Government agencies or contractors are exempt from the information privacy principles?

The Hon. K.T. GRIFFIN: As a lot of detail is required, I will obtain some answers and bring them back.

WOOL

The Hon. T. CROTHERS: I seek leave to make a precied statement before asking the Minister of Justice, representing the Minister for Primary Industries, a question about the wool stockpile.

Leave granted.

The Hon. T. CROTHERS: On Sunday 9 August just gone, a Mr Rod Thirkel-Johnston, the President of the Wool Council of Australia, was interviewed on the television program *Landline*. As well as being President of the Wool Council, Mr Thirkel-Johnston is also an executive member of the International Wool Textile Association. During the course of this interview he asserted that the moratorium decision taken by the Prime Minister to freeze all sales from the wool stockpile until 1 July next year was entered into by the Prime Minister as a frightened decision in order to replicate the promise by One Nation Party's position on freezing future wool sales from the wool stockpile. He further asserted that this was done purely to protect the Coalition's rural vote from One Nation at the upcoming Federal election.

He then argued that the interest rates, which will still accrue from the wool stockpile's indebtedness, and the wages for the staff employed by the Wool Council of Australia, will have to be paid by Australian wool growers themselves. Indeed, it was his view that the finding of these moneys, both for interest rates and for wages, will offset much of the gains to growers which may flow from a moratorium on the sale of wool from the stockpile over the next 11 months. In the light of the foregoing, my questions to the Minister are:

1. Does the State Minister for Primary Industries agree with any of the comments made by Mr Rod Thirkel-Johnston and, if not, why not?

2. What mechanisms have been put in place by Prime Minister Howard in respect of the re-starting of wool sales from the wool stockpile on 1 July 1999?

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

ROAD SAFETY

In reply to **Hon. CARMEL ZOLLO** (28 May).

The Hon. DIANA LAIDLAW: The design of the National Highway One and Wallaroo-Kadina Road junction is a new concept, and it will take some time for motorists to become aware of how to use the junction properly and without hesitation. In addition, wide media coverage, including newspapers, pamphlets, radio and television, was undertaken to inform motorists how this junction is to work and how to use it effectively.

The merge lanes have been designed to give vehicles time to accelerate to the speeds of the vehicles travelling on the highway and provides them with an opportunity to merge safely.

A meeting was held between officers from Transport SA and SA Police, and it was decided that some interim and immediate changes and minor upgrading were required at the intersection. The upgrading included—

- The erection of 'Give Way' signs on the approach to the junction for traffic travelling south from the Yorke Peninsula. This is not a standard practice, however, due to the wide nature of the junction to accommodate B-double road train movements, these signs are being installed to reinforce that the vehicles have to give way to traffic travelling in both directions.
- Movement of the 'give way bar' on the Kadina-Wallaroo Road closer to the junction to reduce the gap required for vehicles turning right to Port Wakefield.
- Painting turning arrows on the pavement to clarify turning movements and to reinforce the correct lanes for vehicles.
- Additional pavement markings to reduce the amount of open space at the junction, and to reduce driver confusion.

Transport SA has also undertaken the following further improvements—

- the installation of additional delineation (guide) posts on the Kadina-Wallaroo approach to the junction to further define the approach; and
- painting the separation median on National Highway One yellow to help define where the motorists approaching from the Kadina-Wallaroo leg have to go.

I understand that the junction is now operating efficiently and that motorists are adjusting to the new alignment.

ARTS, MELDRUM REPORT

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

The Hon. DIANA LAIDLAW: The Meldrum Review is the outcome of an internal review instituted by Arts SA earlier this year into the operation of the legal framework governing the 20 leading funded organisations in South Australia.

In South Australia this framework differs from that applying in all the other States, particularly in two respects:

1. South Australia has historically made greater use of the statutory authority mechanism than any other State

2. decision-making responsibility, particularly in the project grants area, is more dispersed in SA than elsewhere.

In addition, following representations from both the Adelaide Festival and Artlab it has been generally recognised that new legal arrangements are required. The existing arrangements for each are

making it more difficult than it need be for these organisations to achieve their objectives.

Against this background, Arts SA determined that an internal review could assist in identifying issues for further consideration and for establishing some criteria for assessing the effectiveness of the current arrangements overall.

In January this year this task was given to Mr David Meldrum a seconded public servant, who had recently finished his term as Director of the Helpmann Academy.

Mr Meldrum's review was received by Arts SA in May. He has now moved on to other work in the public sector. In the time since, Arts SA has assessed the recommendations. I have now agreed with Arts SA's assessment as follows:

1. In respect of the following Divisions of Arts SA—the Art Gallery, SA Museum and State Library—that there is a case for investigating a shift in responsibility for some management functions from the Central office of Arts SA to the Boards and Management of the institutions themselves. (Incidentally, this same exercise is being pursued with similar cultural institutions elsewhere in Australia).

2. That further consideration be given to Ministerial appointments to the boards of arts companies that are not Statutory Authorities; and

3. That formal recommendations should be put to Cabinet to amend the legal structures of both the Adelaide Festival and Artlab.

Like Arts SA, I regard most of Mr Meldrum's recommendations to be on the wild side. Accordingly, I have rejected his recommendations relating to Carrick Hill, the History Trust of South Australia, the South Australian Country Arts Trust, the South Australian Film Corporation, State Opera and State Theatre.

Overall, I consider that South Australia generally and the arts sector in particular is well served by the organisational structures now in place—and that a radical dismantling of structures as proposed in the Meldrum Review is neither appropriate nor warranted. Of course, from time to time some adjustment to legal structures will always be called for and my response to Mr Meldrum's recommendations does not preclude such adjustments in future.

I seek leave to incorporate in *Hansard* a table summarising the Meldrum recommendations together with Arts SA's response, which I have now endorsed.

Leave granted.

In relation to the specific questions asked by the Hon. Ms Pickles, I advise:

1. As Arts SA commissioned the Review as an internal working paper, the Executive Director will release the Review, excluding the Appendices which include comments made in confidence by various individuals interviewed by Mr Meldrum.

2. The internal brief indicated some consultation would be required, and the report lists the people consulted.

3. As already explained last week the Australian Dance Theatre review to be conducted by Mr Peter Myhill is an entirely separate exercise which will address a wider range of issues including management practices and financial sustainably.

4. Dealt with above.

Arts Organisation	Recommendation of David Meldrum	Arts SA response—endorsed by Minister for Arts
Adelaide Festival of Arts	to become a statutory authority, included in omnibus legislation, or by enacting a separate statute	statutory authority status favoured, subject to discussion with Crown Solicitor and Festival Board.
Adelaide Festival Centre Trust	included in omnibus legislation, or amendments to achieve consistency take on the country tour arrangement functions of SACAT	Recently placed under the Public Corporations Act by separate Cabinet decision
Adelaide Symphony Orchestra	no change	endorse recommendation
Adelaide Fringe	no change	endorse recommendation
Art Gallery of SA	included in omnibus legislation or amendments to achieve consistency possibly administer Carrick Hill	reject recommendation Shift of Management functions from Arts SA to be reviewed
Artlab	become a subsidiary of a 'North Terrace' institution, subject to the Public Corporations Act	reject subsidiary recommendation. Structure to be reviewed as part of competitive neutrality requirements
Australian Dance Theatre	Government-appointed Board members to be phased out	under separate review. Removal of all/some Government-appointed Board positions supported
Carrick Hill Trust	statute amended to allow administration by AGSA or National Trust	reject recommendation Shift of Management functions from Arts SA to be reviewed
Community Information Strategies Australia	no change	endorse recommendation
Disability Information and Resource Centre	Government appointment to Board and other Government powers to be phased out	further discussion required with DIRC

History Trust	to be wound up—functions distributed to other agencies and central office of Arts SA	reject recommendation
Jam Factory	Government appointment to Board and other Government powers to be phased out	review of Government appointments to Board required
SA Country Arts Trust	to be wound up—functions distributed to other agencies and central office of Arts SA	reject recommendation
SA Film Corporation	included in omnibus legislation or amendments to achieve consistency	reject recommendation
SA Museum	included in omnibus legislation or amendments to achieve consistency manage History Trust museums, and Museums and Accreditation Grants	reject recommendation shift of Management functions from Arts SA to be reviewed
SA Youth Arts Board	grants function to be placed in central office of Arts SA. AFYP management to be reviewed	grants function to be reviewed in the context of the new arrangements for the administration of Living Health funds
State Library	included in omnibus legislation or amendments to achieve consistency administer State History Centre and Community History Fund	reject recommendation shift of Management functions from Arts SA to be reviewed
State Opera SA	cease operating as a statutory authority appropriate 'parent' body for Ring Corporation to be identified	reject recommendation
State Theatre	cease operating as a statutory authority	reject recommendation
Tandanya	Government appointments to Board and other Government powers to be phased out	review of Government appointments required

WORKCOVER

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Attorney-General, representing the Minister for Industrial Relations, a question about WorkCover.

Leave granted.

The Hon. R.R. ROBERTS: Bill No. 30 of 1998, an Act to amend the Workers Rehabilitation and Compensation Act 1986 and to make consequential amendments to the WorkCover Corporation Act 1994, introduced by the Government and amended by this Parliament, was assented to on 16 April 1998. On behalf of the ALP I was successful with an amendment to insert section 107B into the principal Act which, essentially, sought to ensure that workers are provided with copies of all documentary evidence and material in the possession of the corporation or its delegates as defined by the amending Act.

The Legislative Review Committee took evidence from a Mr Fred Morris of WorkCover at one of its FOI review hearings to the effect that WorkCover's concerns were met by section 107B. This necessary Bill, assented to on 16 April, has not been proclaimed, and I have received complaints from constituents seeking documents held by exempt employers that they are being denied such access because section 107B has not been proclaimed. My questions to the Minister are:

1. How many delegates, if any, have been accredited since 16 April 1998 and under what authority?

2. Given that this was necessary Government legislation, why has this Bill not been proclaimed, and when does the Government intend to proclaim this legislation?

3. Is it true that the *Sunday* program has been investigating WorkCover and that the delay in gazetting this Bill is a deliberate ploy to get the heat off the Government to stymie the broadcasting of this program?

The Hon. K.T. GRIFFIN: I will refer the questions to my colleague in another place and bring back replies.

The PRESIDENT: I recognise Brian Cochrane and Colleen Graig who are sitting in the gallery and who recently retired from employment with the Parliament.

ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) BILL

Adjourned debate on second reading.

(Continued from 6 August. Page 1276.)

The Hon. R.R. ROBERTS: I oppose the second reading of this Bill. We need to go back some time to look at the history of the Bill and the operations of the public utility about which we are talking. In fact, we need to go back some 50 years, when the decision was made to have the Electricity Company of South Australia taken over by the Government for the benefit of all South Australians.

The Hon. L.H. Davis: Do you think the world has moved on since then?

The Hon. R.R. ROBERTS: I think the world has moved on, but if we do not look at our history and we do not learn from it the Liberal Party, along with the Hon. Mr Davis, will be wandering around bashing into walls for the next 100 years. This came about in 1943, and the first discussions commenced in 1944 and 1945, when we were coming out of a situation of great world turmoil and the future of our State was foremost in the mind of legislators. The Premier of the time was Mr Tom Playford, who is well known to most people who have studied the political process at any length.

By any measure of the standards of politicians, whether Liberal, Labor, Democrat, or Independent, one must think that Mr Playford was one of the most effective Premiers ever to grace this Parliament. His achievements stand as testimony to the level of statesmanship that was shown by him. At the time, the State was coming out of the war, and what is not generally recognised by all commentators is that we were in a position of high debt. We had a Premier who was looking to the future, knowing full well that he had to rebuild this State. To do that properly he had to expand the State, so he continued with public utilities.

There are certain functions for which the public expects the Government to be responsible and, indeed, in which to take the leading role. Some of the issues that were recognised by the Hon. Tom Playford and the other statesmen who were in Parliament at the time were the need for hospital expansion, the need to provide reticulated water across the whole State, the need for housing, and the need for electricity if this State was to expand and prosper. There was also an expectation by the public that education and rail services would be the responsibility of Government.

The Hon. Legh Davis interjected that the world has changed. I tell you, Mr President, that the public's perception is exactly the same today as it was then in respect of those core issues. What has happened since that time is that we have had privatisation of hospitals and water; the public buildings section has been gutted; there is a Bill before us to contract policing; education budgets have been cut and schools closed; rail transport has disappeared; and now it is the sad proposition of this Government that we do the same with electricity.

It was not an easy road for the Premier to get his way through the House in respect of electricity, and I will come that to that later. Since this Government came to power in 1993, it has consistently told the electorate and Opposition members that it would not privatise electricity in South Australia. Despite our increasing attacks upon it, the Government consistently stated that. I was the recipient of a document dated 25 January 1996 which obviously contains advice to the Cabinet and which laid out quite clearly what was going on behind the scenes, despite the protestations by the Premier that there were no moves to privatise electricity.

This document, which has been widely quoted and is now available to anyone who wants to read it, analyses the legal issues involved in changing the structure of ETSA. One proposal was to sell 50 per cent of ETSA's transmission assets without any requirement for legislative action. Not only was the Government not telling the truth but also it was conspiring to try to avoid the political process. The document talks about what could be accomplished by a sale of 50 per cent of the shares in a Corporations Law company. The document talks about a range of issues but it is not my intention to canvass all of them today.

However, the document does talk about the need for an amendment to section 41A of the Law of Property Act to extend the present scope of easements *in gross*, for example, to utilities as declared by the Governor. The document states:

> This could be accomplished this parliamentary session [1996] in the Attorney-General's portfolio Bill.

Members can imagine that we were lying in wait when the Attorney-General's portfolio Bill came forward. In fact, I had a long discussion with the Attorney-General in which I intimated that this was part of a proposal for the breaking up and sale of ETSA.

The Attorney-General, whom I believe to be generally an honest man, explained to me that that was not the case at all: it was merely to allow other utilities, such as gas, access to properties. I believe that, at that time, the Attorney was telling me what he believed to be the truth. That just illustrates what this Government will say to credible members: the Attorney came into this place and said, 'That has nothing to do with it,' and I believed him.

However, if one reads the rest of the document one finds that everything in that document has come true. When the Electricity Corporations (Generation Corporation) Amendment Bill was introduced into Parliament in 1996 I, on behalf of the Opposition, was prepared to ensure that this Government acted honestly. Members may recall that one amendment moved by the Opposition stated:

> The long title of the principal Act is amended by inserting, after 'purpose', 'to provide for the electricity corporations to remain in public ownership'.

In section 2(b) we proposed:

> That section 3 of the principal Act be repealed and the following section be substituted:
>
> Objects.
>
> The objects of the Act are to establish corporations for generation, transmission and distribution of electricity for the benefit of the people of South Australia and the economy and to provide for the assets of electricity corporations to remain in public ownership.

With the thoughtful help of the Australian Democrats, we successfully moved those amendments. When that Bill came before this place, the Premier, who was then the Minister for Infrastructure, went absolutely crazy at our successfully moving those amendments and assured us once again that there was no intention to sell ETSA and Optima. We were also told that by passing that Bill, which fortunately we amended, the main office of the National Electricity Generation Corporation would be established in Adelaide. That is one more failure that lies before this Premier. That did not occur.

Also in that year was the release of the ETSA Corporation 1996 Annual Report from Mr Clive Armour, who was about to take a very well paid extended holiday. The annual report, which was issued subsequent to the break up, states:

> This year marks the jubilee of ETSA Corporation, the State's major generator and distributor of electricity. The organisation was created as the Electricity Trust of South Australia under an Act of Parliament on 1 September 1946.

The report further states:

> I am pleased to announce a profit before tax of $178.2 million, up from last year's result of $165.7 million, and an increase in shareholder returns with record dividends of $174 million paid to the State Government.

This is the asset that the Government now wants to throw away. There were continual denials through 1996-97 from a whole range of prominent people within the Liberal Party. I do not want to canvass every issue—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Let them go, Mr President; they bother me not. The Premier said:

> As I have said on numerous occasions, the privatisation of ETSA is not on the agenda. It is not on the agenda and has not been considered by Government. I guess we will see with the electricity industry what we saw with the water industry: do not worry about the truth of the matter, just go out and repeat the lie to the community at large. . . privatisation has not been and is not on the agenda as it relates to the Electricity Trust of South Australia.

The Premier repeated that in the *Advertiser*. Then, during the 1997 campaign, he trotted out an expert for expert advice—the Hon. Graham Ingerson—who said, on 3 September, in relation to Labor's assertions that the Government would sell:

> That is obviously part of a Labor lie campaign.

During the election, John Olsen said:

> We are not pursuing a privatisation course with ETSA.

On it went, and I could relate many other instances. That line was pursued right up until the election. In fact, we were handed documents during the election campaign saying that this would occur and, again, that was denied, and we were called liars by none other than the Hon. Graham Ingerson—which is, in a sense, high praise from the champion. The Government, the Democrats and, indeed, the Labor Party have told the people of South Australia that we would not sell.

The Hon. Legh Davis, who made his contribution to this debate last week, has some credibility when it comes to matters financial and the political process: his problem is when he tries to mix both, and that is when he goes wrong. Now, after the election, I come back to the point of a mandate. What the Hon. Legh Davis does not understand is that not only does he not have a mandate to sell ETSA and Optima: neither does the Australian Labor Party nor the Democrats. A mandate was clearly given to us by the people of South Australia at the election not to sell ETSA and Optima. It has nothing to do with the—

The Hon. L.H. Davis interjecting:

The Hon. R.R. ROBERTS: The Hon. Legh Davis leads himself into the trap. In 1997, the Liberals said that a vote for the Labor Party is a vote for compulsory unionism. We won that election overwhelmingly. We came in with a motion for preference to trade unionism—a completely different motion—and that did not worry the Hon. Legh Davis: he crossed the floor and voted against it in the Legislative Council. So, his record, and the record of the Government on mandates, is pretty flimsy.

When Parliament resumed after the election, the Governor, Sir Eric Neal, came into this place at a joint sitting to open the Parliament and told us all, on advice from the Government, that everything was rosy. He never mentioned anything about the problems with ETSA or Optima. When the Government wrote the speech for the Governor it knew that there was a problem but did not tell him. The Government stands condemned for that also. All of a sudden, it found a million dollar black hole that was not there. Then we had the disgraceful exhibition of Government members fumbling around and saying that they did not know—Mr Ingerson did not know; nobody knew. The evidence now shows that they all knew, because seven heads of department were briefed that there was a problem. I raised this matter once before and received the usual scoff from the rabble opposite that I did not know what I was talking about.

I asked the question then, 'When did Stephen Baker know?' Everyone remembers Stephen Baker: he was the man who, after the State Bank affair, was going to save the State. He was the man who came into the Parliament and said, 'It's all fixed up. It's going to be all down hill from now on: it's easy street. We're $1 million in the black.' That is what he said when he came into the Parliament at budget time. What happened to Mr Baker? Surprise to everyone, just prior to the election, this person who got us on to easy street and $1 million in the black, suddenly decided on the cusp of his greatest victory to resign. He was holding one of the safest Liberal seats in the State, and everyone asked why. He knew why. He knew that there was a black hole and he knew it was going to go bad, so he took off to leave the rest of them with this proposition.

The Hon. L.H. Davis: Who created the black hole?

The Hon. R.R. ROBERTS: I am glad the Hon. Legh Davis asks that question. I will tell you who created the black hole. You helped, and it really does not matter about the State Bank. I am not shy about the fact that we have taken the political responsibility for the State Bank. I am not worried about the legislation that you people amended to provide that the Government could not have hands-on control. People out there expect Governments to get things done, and whoever is in charge when things go bad has to take the political responsibility. We have taken the political responsibility, and that is why we are sitting over here, but you people told the people of South Australia that you could fix the problem better than we could. We have given you a go. Then you came back and told the people that you had fixed it and were $1 million in the black.

As soon as the ink dried on the returns, out it came that the management which the Government claimed it was so good at was abysmal. The Government's management has been so good that it now wants to sell the rest of the family silver. That is how good you are and, if I were the Hon. Legh Davis, I would not crow too loudly about his business acumen or the business acumen of this Government. I do not include the Hon. Mr Davis, because he is not part of the Cabinet and we know why he is not. What have we got here? We have a situation where the State Bank then had to be sold. Why was that? The Hon. Mr Davis does not want to go back and look at the record of the Hon. Tom Playford, who was actually successful. I would have thought it was not a bad place to start with the resolution of a problem, seeing that we had no mandate.

What is the difference between 1946 and 1998? What is the difference between Playford and Olsen? After the Second World War we were trying to rebuild the State, and there was no mandate for Tom Playford to privatise the Electricity Company of South Australia. Mr Olsen definitely has no mandate—in fact, clearly the opposite. In 1946 we had the overwhelming support of the public for the proposition put forward by Tom Playford and we also had the statesmanlike approach of the Leader of the Opposition and the public going with him.

What does John Olsen have? Despite his propaganda campaign and all his glossy publications which have cost the taxpayer a fortune to try to justify his broken promise, he has overwhelming opposition to the sale. Tom Playford had the opposition in this Parliament from his own members—opposition from his own members in the Legislative Council. John Olsen has the opposition of the ALP and the Democrats and the overwhelming opposition of members of the public. I have had some discussions with my colleagues about debt levels. In 1946 we had some debt problems, just as we have some debt problems now. What did Tom Playford do? He was prepared to commit his Government and the resources of Government to look after all South Australians—not only those in the metropolitan area.

He went out and invested in this State. He put his money on South Australia and its people. Given the Government's high debt levels, what does it want to do? It wants to flog off the last vestiges of the people's milch cows. The report states that that money kept coming in. So, in 1946, Premier Tom Playford had a CSO (community service obligation).

Mr Olsen wants to give another CSO, but his is a company shareholder obligation. He wants to take the matter out of the hands of the public and give to it to the shareholders. For the same reasons, does he need to do that? Given the mandate, what should we do?

On a number of occasions I have looked over these issues to find out which was the best option. Many thousands of words have been uttered on this matter and, when I first read the history in 1945 and 1946, I thought that Tom Playford had a problem. However, his situation was slightly different from ours in that the people at the time were supporting him. I can tell all members that members of the public do not trust any of us. They certainly do not trust the Premier or the Liberal Party, because they can see the lies and deceit that have gone on in the past four years. They are sceptical of the Labor Party and the Democrats. However, they trust themselves, and they have a right to trust themselves. I refer particularly to the people who live in the country, and I have a particular affinity with these public issues as they affect country areas.

When we had this problem, I would have thought that the Liberal Party, with one of its gods being the Hon. Tom Playford, would have had a look to see how he solved the problem. How did he solve the problem? He took it out of the political process, or the Parliament took it out of the political process. Direct and definite promises were made to the people of South Australia that we would not sell ETSA. Why would they not be sceptical? The Hon. Rob Lucas went off on a tour, with all the American advisers, with their wads of $50 notes which they pulled out and flashed to the people of South Australia.

I can tell you that those unemployed people in Whyalla and Port Pirie were not all that impressed. The Government tried the old pea and thimble trick, the snake oil routine. The Treasurer went to Port Augusta, and then said, 'They are not interested up there; hardly anybody turned up.' How many times do you think that Port Augusta people will be lied to? They have been lied to so many times. They have been gutted of Government services by this Government and the Federal Government. They were not going to listen to another pack of lies from the Liberal Party.

The Treasurer went out with his campaigning team to try to con the people of South Australia, and it did not work. What was the result? I would have thought that the Government would have asked, 'Is it a good proposition?' Some of my colleagues have doubts about the sale, and others in the community also have doubts about the sale. How do we give the people some confidence in the political system? It is no use sending the Premier or Rob Lucas out; they do not believe either of them, and why would they? It is no use sending Mr Ingerson as he is not even a Minister any more.

Why should they trust the Labor Party? Well, because I actually think we are right. Why should they trust the Democrats? Because I think the Democrats are right. But there is a scepticism out there in the political process. The people are sick of the song and dance men like the Hon. Legh Davis. They are sick of the Premier going up there deceiving them. I would have thought that the answer for John Olsen lay in the history. The Parliament said, in the first instance, that it did not think it was a good proposition, so the statesmen of those days said, 'Let us take this out of the hands of the politicians.' They set up a royal commission. They set up a creditable third party.

But what do these people do? They spend as much money, get no result and have no credibility. After the thousands and thousands of dollars that they have spent, still 70 per cent of the people out there are saying they do not want it sold. After all their experts, 70 per cent say they do not want it sold. My proposition is that they look to their own history. What they should have done is said, 'All right, we have broken our promise. We will now give the people some confidence.' The only way the people of South Australia will be convinced of the Government's proposition is if they are shown by independent, creditable advice.

The people of South Australia will not be convinced by snake oil Yankee experts on retainers for success. They will not be convinced by that and they will not be convinced by members opposite. They will not be convinced that I am right. They will not be convinced that Mike Elliott is right, and they will not be convinced that Mike Rann is right. There is a proposition that will have some credibility with the people of South Australia. If the proposition is a good one, and if you are right and I am wrong, what are the odds? Would not that creditable forum flesh that out, as it did in 1946? Would that not be a proposition? This Bill has no credibility. The Premier has no credibility, and the Government has no credibility. This Bill should be rejected. In its current form this Bill cannot and should not be supported.

So, I will oppose the second reading. I am looking forward to that prattling fool opposite making his contribution, when he tells the people of South Australia that they do not know what they are talking about. When he gets to his feet and makes his sparkling response he would do better to concentrate on the number four position because, if he does not get number four, he will not even be here. This argument is not about the political midgets that run the Liberal Party today. This is an argument for statesmen. This is an argument for the Parliament of South Australia to resolve in the best interests of the people of South Australia. I do not think that either this Government or anyone else can do it. The people have been promised something and they are entitled to that, unless they can be convinced otherwise by someone other than the Liberal Party. I oppose the second reading.

The Hon. NICK XENOPHON: I rise to speak on a Bill which is as controversial as it is important to this State and which, at its heart, raises issues of not just economics and public policy but also of fundamental principles of ethics and trust in politicians, our political processes and our system of democracy. In deciding my position on this major piece of legislation I have two obstacles to clear. The first involves assessing the merits of the Government's case for selling both ETSA and Optima and, for the sake of convenience, I shall simply refer to both as ETSA.

So, what are the economic arguments both for and against the sale of ETSA? The Treasury argument which appears to be based on the Sheridan report seems quite clear cut. If the State sells ETSA for $5 billion, then the savings of around $300 to $350 million per annum on interest payments will outweigh the loss to the State of dividend and tax equivalent income of around $200 million per annum. Under this simplified version of the Treasury analysis, the net economic benefit to the State would be in the order of $100 to $150 million per annum. The break-even sale price, the price below which it would no longer be profitable for the State to sell ETSA, is calculated at approximately $4 billion.

The economic case against the sale of ETSA at this price of $4 billion is presented by the Quiggin and Spoehr report. In sharp contrast to the Sheridan analysis, Quiggin and Spoehr estimate the break even price to be around $7 billion.

This $3 billion difference is deserving of some objective economic scrutiny. Both analyses make assumptions about a number of key variables including the interest that would otherwise be incurred on an amount of State debt equivalent to the expected sale price; the earnings before interest and tax for ETSA; the proportion of those earnings before interest and tax that goes to the State as a dividend tax equivalent payment, and by implication the proportion that is used as retained earnings and reinvested into ETSA; the direct and indirect explicit and hidden cost to the State of maintaining a privatised electricity generator and retailer; the cost of making the sale; the expected sale price; and any existing debt or liabilities that will have to be extinguished prior to the sale.

The key differences in the assumptions of the two analyses can be summarised as follows. The Sheridan analysis assumes a lower level of earnings before interest and tax for ETSA than the Quiggin and Spoehr analysis. The Sheridan analysis assumes that the sale price is a true net price and there are no liabilities to be deducted, whereas the Quiggin and Spoehr analysis assumes that there is around $300 million in provisions for superannuation to be extinguished before the sale. The Sheridan analysis assumes that only the proportion of earnings before income and tax that goes to the State as dividend/tax equivalent payments should be treated as income forgone in the event of a sale, whereas the Quiggin and Spoehr analysis assumes that virtually the entire earnings before interest and tax should be treated as State income forgone. The Sheridan analysis assumes that the interest rate over the 10 year period will be constant at 7 per cent, whereas the Quiggin analysis assumes it will be constant at 6 per cent.

For the following reasons I find that I am not in complete agreement with either the Sheridan or the Quiggin and Spoehr estimate of the break even price. I have no evidence to suggest which of the two projections of ETSA earnings before interest and tax are more likely to be reasonable. However, they are, on average, different by only about $30 million per annum. In addition to the provision for superannuation, any additional liability such as lease back arrangements and existing contracts, either purchasing or supply, would need to be considered. However, we have no information on the extent of such liabilities. It is reasonable to accept the Government's argument that there is a high requirement for retained earnings in a capital intensive industry and therefore to accept the Government's claim of a lower figure regarding forgone income to the State. However, I accept Quiggin's view that the State has some discretion around this figure, and the yield curve currently is flat but closer to an average of 6 per cent rather than 7 per cent, making Sheridan's analysis less accurate in this respect.

In my view, neither analysis adequately addresses three issues: first, the inevitable upheaval that will occur once the national electricity market is operating and the significant potential risks such a market entails for both private and public organisations; secondly, any liabilities in addition to superannuation that may need to be paid out by the State in the event of a sale; and, thirdly, the ongoing costs to the State associated with maintaining a quasi regulatory framework around a privately owned company. In addition, there are a number of more general points against which the results of any break even analysis should be considered and I now deal with some of those points.

I am aware that the Australian Competition and Consumer Commission has stated some concern as to the ownership structure, post sale, if the purchasers are local, despite the proposed 20 per cent cross ownership limits; there are limited concerns if the purchaser is from elsewhere in Australia or overseas. In any event, I further query the need for the extent of disaggregation which is proposed whether or not there is a sale.

When the national electricity market commences, structural adjustment will be required regardless of who owns ETSA, and the greater the adjustment required the lower the potential sale price. The notion of a narrow window of opportunity as pushed by the Government implies a speculative element in the sale on the side of not only Government but also any potential purchasers. The Victorian sale has already provided a significant learning opportunity for the private sector. It is unlikely that in pre-empting either the sale of the New South Wales electricity assets or an increase in the exchange rate, the State Government will be able to make speculative gains unless potential purchasers, for some reason, are not also privy to this information.

In relation to retained earnings, the Government has stated that the requirement for retained earnings in a capital intensive industry such as electricity is significant. That is one of the main arguments that Treasury has against the Quiggin and Spoehr report and, if that assumption were changed, it would significantly reduce the break-even price estimated in that analysis. However, the State's discretion as to the required dividend and tax equivalent payment is a valuable tool in ensuring that investment back into ETSA in fact occurs.

I now turn to environmental issues. The notion of maximising profit is not necessarily consistent with broader environmental objectives. The processes and costs of addressing consumer protection and equity are not adequately described or quantified at this stage. In relation to the head office, there is obviously a social cost in any reduced local presence in Adelaide, the loss of expertise and the like. In relation to reduced flexibility in the State revenue base, flexibility in a revenue base is essential, particularly when certain sources of revenue are less predictable or cyclical. Regarding the reduction in State assets, there may be a longer term economic and social cost on a reduced asset base.

But, after weighing up all the matters to which I have referred, I am inevitably forced to return to the question of State debt and the negative impact of that debt. With that in mind, my conclusion is that it is likely that a net economic benefit will result from the sale of ETSA provided that the sale price is in the range of $5 billion to $6 billion net of any liability, such as superannuation and lease back arrangements, and that there are sufficient conditions around the sale to ensure that the risks of transferring from public to private ownership are appropriately minimised.

That leaves me with a second obstacle before I can give this Bill my in-principle support: whether I can support this Bill given the circumstances of my election and, more importantly, the promises made by the Government in the lead up to the 1997 election. When South Australians cast their vote on 11 October last year, there were a number of issues, a wide variety of issues, that influenced their vote. But, there was one issue—the privatisation of ETSA—that had been decisively and unambiguously removed from the political landscape as a result of the unequivocal statements of the Premier and the then Deputy Premier that ETSA was not for sale and would not be sold. It goes without saying that the voters of South Australia were entitled to rely upon those promises.

In addition, the former Treasurer's last budget assured us that we were on a course of recovery, that the shackles of the State Bank had been broken. Yet, just four months after the election, we were told that ETSA had to be sold and that our State's future depended on it. Some media commentators have recently said that, because I was elected on a so-called single issue, I have no right to vote against such a major piece of legislation. In light of the ironclad undertakings given by the Premier and the then Deputy Premier during the election campaign, I can safely say to those media commentators that not one person who voted for me, for the No Pokies ticket, could reasonably have contemplated that during the life of this Parliament I would be voting on a Bill to dispose of ETSA.

I do not find it helpful to go down the path of the Opposition and to say that the Premier deliberately misled the people of South Australia over ETSA, but I will say that this Government, and for that matter the Opposition, knew or ought to have known prior to the last election that the impending national electricity market would cause significant upheaval for the industry and consumers alike. So, I have to delve into the ethics of voting to sell an asset, the State's largest remaining asset, in the face of these broken promises. I am told that voters have come to expect politicians of all political persuasions to break promises, that it is accepted that politicians lie to the electorate. As a social researcher, Hugh Mackay, wrote recently:

> With trust in the political process being eroded with every bent principle, every broken promise and every policy backflip, the level of cynicism has reached breaking point for many Australians.

I cannot support the sale of ETSA, and consequently this Bill, unless a fundamental condition is met and, given the importance and magnitude of this issue, that condition must be to allow the people of South Australia, if you like the owners, the shareholders of ETSA, to have an opportunity to express their view on this crucial matter by way of a referendum.

In the ordinary course of events, our system of parliamentary democracy expects our elected representatives to make decisions conscientiously in the interests of the State as a whole. If the electorate does not approve of those decisions, it can deliver its judgment at the next election. However, the circumstances now facing us present an extraordinary dilemma because, once ETSA is gone, it is gone forever, and the only solution must be a referendum.

I have been urged not to advocate a referendum because it is considered that the people of South Australia will never vote for it. That argument assumes that the people of South Australia do not have the capacity to understand and accept the force of the arguments for sale. I have greater faith in the good sense of the people of this State. After all is said and done, what can possibly be wrong with allowing the people of South Australia to have an opportunity which they have not previously had to express their views on the sale of ETSA at the ballot box?

The Hon. T. CROTHERS: In rising to make a contribution to this debate, let me first congratulate the Hon. Nick Xenophon for his ethical stand in respect of the Government's policy positions taken prior to the last election. I intend as far as possible to address the merits and demerits of the sale of ETSA. In his contribution to the debate last week, the Hon. Legh Davis sought to make a comparison in respect of three members of this Chamber who hold economic degrees from universities in South Australia. In so doing, I thought he missed a truism that stands correct in respect of economics: that is, that there are many viewpoints and differences expressed by economists right across the ages. We can see today how the supply side theories of the 1930s held by Maynard Keynes and others are so discredited today: theories which they said, had they been held to, would have prevented the Depression of the 1930s which, in itself, was horrendous.

I now come to the sale of ETSA itself. Before I do that, I want to say that contributing to the rationale that underpins my view is the fact that economics is not an exact science. I draw the Chamber's attention to the worldwide depression of the 1930s, the Australian depression of the 1890s, and the credit squeeze in Australia of 1960 and thereafter and, even more to the point, the present day collapse of the so-called tiger economies in South-East Asia, all of which point to the position that economics is not an exact science.

Adam Smith, who is regarded as the father of modern economics, in his book *The Wealth of Nations* (which, in respect of economics as a science, was written as recently as the late 1700s) condensed many points of view. Some of those points of view are still being debated today. So, as a science, economics is not very old in respect of the people who have been practitioners of that science since Adam Smith's *The Wealth of Nations*.

In its agenda for the sale of ETSA, as I understand it, the Government is not proposing to float shares to the Australian public. In that respect, I ask myself: why not? I have come to the conclusion that the reason is that, irrespective of the shares of this company being basically owned by overseas interests leading to the expatriation of profits from our shores to wherever the parent companies preside and the desirability of some form of legal control being exercised over ETSA and electricity generation in this State, the Government is prepared to sell to the highest bidder even though that would ultimately mean the loss of control relative to the destiny of the future planning of energy generation in this State.

When Sir Harold Macmillan—certainly not a Labor supporter—resigned as the Conservative Prime Minister of Great Britain, in the usual tradition of that nation he was elevated to the House of Lords as the Earl of Stockton, which was the name of the constituency that he had held for so many years for the Conservative Party. He got out of his deathbed at the age of 93 to make his maiden speech in the House of Lords against the rationalisation that was then prevalent, led by the then Prime Minister, Margaret Thatcher. Her views left a distinct imprimatur on the thinking of some of the world's economies and the ever enlarging lustful greed of some of the privately controlled, larger capital intensive industries on this earth. But Sir Harold Macmillan—or the Earl Stockton as he then was—said, 'If I sell off the family silver and it still does not turn the corner for me with respect to the debt encumbrances on my family home, what am I then to do after I have sold off all my assets? How then do I meet my future debts?'

There is a parallel—although some would argue differently—between what he was talking about in his maiden speech in the House of Lords, *circa* 1971, and what will transpire with respect to the sale of ETSA. I know that the argument is that if we do not sell ETSA the State is committed to some $300 million per year in interest repayments for servicing this State's debt. But the fact is that, when the economic wheel turns full cycle and this economy gets back on track, that debt relative to the State's economy will be paid off. That is a fact. But, once we sell ETSA we have sold it forever, and we

could only get it back if we were prepared to pay the price that would then be prevalent.

The difficulty with economists is that there is one common theme that I think above all others prevents economics from being an exact science, and that is greed. No-one has been able to legislatively bell that tiger. Greed is all-prevalent today but it was not in Sir Thomas Playford's time, when people still thought they ought to act at all times in the best interests of the majority of people. Greed, which is a much more prevalent theme today, is the one rationale that more than anything else prevents economics from becoming an exact science which could forecast or determine with considerable accuracy the future of any decisions that we take.

I will cite some factors that will bolster the assertion I make relative to greed. One of them concerns India and the current electrical generation system which has been installed over the past eight to 10 years so that India can more become ever more heavily industrialised. The Indian governments that led that program estimated that, by some time about late last year or early this year India's, capacity for electricity generation would exceed its demand by 21 per cent.

Most of the installations in respect of the power plants were carried out by overseas owned and controlled electricity contractors. Lo and behold, when the Indian Government had a look at the level of the finish of the 10 year program, it found that, rather than having a 21 per cent surplus requirement capacity, it had a factor of 8 per cent less than that which is currently required. And when it further examined that, it found out that corporate greed was the cause of it, because so many of the contractors were paying bribes and kickbacks in order to ensure that they got the contract they did not really care what the moral ethic of their involvement in the work was; that was, that they should supply the customer to the absolute best of their ability that which was required under their terms of contract. I simply cite that as an example of greed in respect of the science of economics.

Who can ever forget—because we were here to witness it—the banking greed in Australia in the 1980s, when all banks except the National Bank of Australia lost thousands of millions of dollars chasing a greater share of what was a very small Australian loans market, made even smaller by the deregulation of the Australian banking system set up by members of my own Party? I well remember how lonely I felt at an ALP convention that took place in this State around that time, when I stood up on the floor and opposed the opening up of the Australian banking system to deregulation. I well remember being shouted down, talked down, by the then Premier (Hon. John Bannon) in respect of that matter. Given the losses that those banks suffered in chasing after trade from an ever diminishing smorgasbord of customers, I believe that history has clearly shown who was right and who was wrong.

It may well be argued by some that it was the deregulation of the banks that reduced interest rates. However, I have always maintained that, in comparison with interest rates in Europe, Australian interest rates have always been greedily and exorbitantly high. Those matters could have been fixed without deregulating the banking system. Successive Federal Governments, both of my political persuasion and that of the Government, have hidden their cards in respect of dealing with exorbitant bank interest rates. Those matters could have been resolved had the Federal Governments of the day not lacked the courage and political will to do so.

Again I want to cite the indicated sale of a former Victorian group asset now in private hands. I want to cite the massive takeovers and mergers by companies in the communications and information industries, leading to ever more monopoly control of those industries, which will become all important in the first and second decade of the new millennium. I want to assert that when monopolies, particularly those in private hands, have the capacity to control those industries in which they are involved, then the general rule of thumb—not the general rule of thumb but the eternal rule of thumb—is that they will charge what the market can bear and not what the product is worth. It is no good anyone then talking about competition, because there ain't any! All the competition has been taken over or merged.

If members have any doubts about that, I cite the sale of a former Victorian asset now in private hands on the basis of rationalisation. I cite the massive mergers and takeovers involved in the telecommunications and communication and information industries which have been the case for the past four or five years and which are very steadily increasing pace at a faster and faster level.

The other matter on which I would like to speak is in respect of greed. Who will ever forget the greed of the insider trading gurus on the American Stock Exchange in the 1980s and the out of control Australian take-over tycoons of the same vintage? One of the great quotes that I remember emanated from a film made in America about the insider traders who, given the amount of money that they ripped off, were hit over the knuckles with a wet lettuce in respect of the punishment meted out to them. The quote of Michael Douglas from the film made about insider trading was that 'greed is good'. That is what this generation has been taught by the media, which is controlled by massive corporations and more and more diminishing into fewer and fewer companies.

They will certainly not support the type of honesty that is required in order to ensure that economics can work for the benefit of humankind and can be a much more exact science than is currently the case. That quote more than any other I have ever heard epitomises corporate greed both in the 1980s and now. Nothing has changed much from Sir Thomas Playford's time when people after the Second World War were determined to support the nationalisation of private industries under Government control, particularly those industries that were considered essential for the economic and future well-being of South Australia. If ETSA is sold, there is no guarantee that that will not pass on to ownership that is more beholden to the eastern States for its ongoing daily bread than it is to little South Australia with its 11 MPs and not much clout in the Canberra jungle—certainly not as much clout politically as has New South Wales and Victoria where Federal elections can be lost and won.

Who is to say, like the Murray River at the end of the day when we are downstream of that electricity generation, that we will not be treated with the impertinent 'could-not-careless' attitude that has been the case with respect to South Australia and the Murray River Valley Water Commission over the years? Irrespective of which Government has been in power in Canberra or here, the same manners prevail. There is an analogy between the control of our electricity generation out of the hands of South Australians and into control lying probably overseas but quite possibly higher up the pecking order—Queensland, New South Wales or Victoria—of the States that carry the political clout in Australia.

Getting back to ETSA, after giving a backdrop, I place on record that the current problems with respect to the sale of ETSA are of this present Government's making. It will not be the fault of this Council if it succeeds in defeating the Bill but the fault of the statements made prior to the last election by the then Premier John Olsen. Worse than that, not only was he the Premier then but prior to becoming Premier he was the Minister responsible for ETSA. The only conclusion I draw from that is that the Liberal Party had done its surveys and had understood, as our honest Treasurer has said in the past couple of days, that the tide of global rationalisation, the tide of selling off the family assets through the privatisation of State and Federal Government owned assets, has gone.

Internationally, there has been very considerable, strong evidence of that over the past 2½ or three years. Certainly, one of the privatisation economists who led the charge back in the late 1970s has now gone on record as saying that he was wrong, and that, too, gives one some cause to think and wonder.

I repeat again: if this Council defeats this Bill, it is hardly the fault of the Council if, in fact, the Premier made it a policy platform plank not to sell ETSA during the term of this Government. The Premier said that. Had that not been said, I for one, irrespective of Party allegiance, would have had considerable difficulty not supporting the sale of ETSA—not because I support privatisation. As any of my political colleagues will say, I have been implacably opposed to any form of privatisation from day one—

The Hon. T.G. Cameron: We fought many battles together.

The Hon. T. CROTHERS: We did indeed. Time and again we would get up, only for the red tide of emotion, the red tide of Thatcherism if you like—no pun intended—

The Hon. T.G. Roberts: Blue tide!

The Hon. T. CROTHERS: Blue tide, was it? Never seeing red, it is difficult for me. But the blue tide of Thatcherism, if you like, emanating from within the ranks of my own Party, rolled us back time and again. The fault in respect of the sale of ETSA does not lie with this Government. The initial road to privatisation was commenced by the Hawke Government. I was on the Commonwealth board of directors, hostels, at the time. The Government decided to sell off Government assets, throwing out the baby with the bathwater as they did, and to sell off the Commonwealth hostels. I opposed that. As a director on that board of hostels, I held that up, as was my right, for many a long day. In fact, I was never reappointed—along with one other New South Wales—

The Hon. T.G. Cameron: But you knew that when you opposed it.

The Hon. T. CROTHERS: Of course—along with one other Labor member in New South Wales who, equally, was not reappointed. Significantly, that member of the ALP who was on the board (and we were not members of Parliament at the time) and who had political aspirations has not cut the mustard in respect of getting a seat anywhere at this point in time. So, that is how long I go back—

The Hon. T.G. Cameron: She must live in New South Wales.

The Hon. T. CROTHERS: She used to live here, actually.

The Hon. T.G. Cameron: Here?

The Hon. T. CROTHERS: Yes, indeed—following the numerical sun, I believe it is called. I do not want to go into all that, but I make it very clear that the Government has been put between a rock and a hard place.

The Hon. L.H. Davis: They are trying to work out whom you are talking about over there, TC.

The Hon. T. CROTHERS: Well, if you listen you will find out that you get an unmentionable mention directly. I do not really want to, but you cannot point the finger at this Government without giving account to some of the activities of my own Party when in government, both in this State and at the Federal level. It has never been my fault, though, that this has taken place. I have been an implacable opponent of privatisation and economic global rationalisation ever since I learnt to talk—and that is going back quite a while.

The Hon. L.H. Davis: I thought you were a living example of globalisation.

The Hon. T. CROTHERS: At least I am alive; you have to speak for yourself. I shall provide an example that may not be that of an apple with an apple, but the principle is the same. I can go back some 45 years when all the major cities, certainly around the English speaking countries, decided that for the sake of modernisation it was time to modernise the public transport system. So, with some exceptions, they decided to scrap the trams. Melbourne was the only capital city in Australia—and I stand to be corrected if I am wrong—to retain its tramway system, and it is found to function much better than the other forms of transport that were reintroduced in other cities at the time of the abolition of the trams.

I believe that, in respect of the sale of Government-owned assets, we will come to rue the day. I do not know when that day will come, but I have no doubt that it will come in part because of the monopolisation within the narrow structures of international companies relative to controlling energy, telecommunications, computerisation, avionics or whatever else they decide to lend their money to. The time will come. As I said, the Government has no-one else to blame but itself because of the statements made by the then Premier.

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: You heard what I said.

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: I have spoken the Queen's English, so you have to understand what I said. I cannot be more explicit.

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: My mother never let me learn the language: she said that I came from too civilised a country! A person more cynical than I might observe, given that he was the Minister responsible for ETSA prior to becoming Premier, that his pre-election promise not to sell ETSA was based on Liberal Party surveys that showed a groundswell of public opposition to its sale. The public perception in respect of that matter was that unemployment, despite further promises to the contrary by both major political Parties, had not gone away, and this was despite the sale of many assets in Australia and in South Australia by both political Parties.

ETSA is the largest public utility that is owned by all South Australians. The incumbent Government was returned to office with 23 of the 47 Lower House seats, and it now governs in coalition with two Independent Liberals and mostly with the support of one National Party member. The implications to me are that the Olsen Government was returned on the policy not to sell ETSA. The further implication of all this, by dint of the result, is that at the last election the South Australian electorate voted not to sell off ETSA.

The only way out of this log jam is for the Government to go to a referendum on this issue because, if as it says it has a good case for the sale of ETSA, it should be able to convince the South Australian public in respect of that matter. Labor promised that it would listen to the people, and that was the first time in a long while that it made that promise. We are doing that right now. I ask what the present Government is doing, despite all its rhetoric—

The Hon. Diana Laidlaw: Trying to get rid of Labor's debt.

The Hon. T. CROTHERS: Well, you are not going too flash. Steady down, darling, don't get carried away by waves of ideological emotion. What is the Government doing about its much flourished rhetoric that it would listen to the people? What is it doing now? I do not intend to support the second reading of this Bill because, if the view is that there should be a referendum on the sale of ETSA, there is no point in taking this Bill into Committee and debating it clause by clause at this stage. I oppose the sale of ETSA at the second reading stage of this Bill and I urge all decent thinking, ethically minded members to do the same.

The Hon. DIANA LAIDLAW: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. SANDRA KANCK: On my wall I have a sign that states, 'It's time that practical commonsense had a win over economic rationalism.' It is a quote from the Premier of South Australia, John Wayne Olsen. I heard him say that on ABC news on 10 February last year and, grabbing pen and paper, I wrote it down before it was lost forever. I was so excited thinking that, for just a moment, a conversion had taken place, but history has shown that not to be the case. After almost losing the State election, John Olsen said that he had got the message. I am not sure what message he got—he must have had a consultant tell him what it was—but it was not the electorate's message.

If the Premier had gone out and talked to ordinary South Australians he might have discovered what the message was. What the people of South Australia told the Liberal Party at the election was that the Government had gone too far: that the people of South Australia were sick of sell-offs, sell-outs and dishonesty. But John Olsen was impervious to that message. We know that, because on 17 February this year he announced that his Government intended to sell ETSA and Optima Energy. It was an announcement that simply took the breath away for its sheer audacity and betrayal.

Nevertheless, because of the seriousness of the Premier's claim that, if we did not sell ETSA and Optima we would face a debt blow-out of State Bank proportions, we undertook to thoroughly investigate those threats. It would have been easier for us to adopt a knee-jerk reaction like the ALP but, during the election campaign, we had stated that we would not privatise ETSA and Optima Energy, and our election slogan—

The Hon. R.R. Roberts interjecting:

The Hon. SANDRA KANCK: —was 'Don't sell South Australia short.' The Hon. Mr Roberts is correct. After an extensive investigation, on 20 June I announced that the Democrats would not be supporting either the sale, lease or float of ETSA and Optima Energy. We came to that conclusion after more than four months of solid research, although we had said at the outset that the Government would have to come up with some pretty convincing arguments. John Olsen has recently been claiming to the business community that 'Sandra Kanck just does not understand'. I understand that John Olsen has a leadership problem and the sale of ETSA, he thought, would provide an opportunity to prove how tough he was. So that the Premier's misleading statements are put to rest, I intend to provide some detail about my investigations. We began by placing an advertisement in the newspaper calling for submissions, and we began an extensive inquiry. We initially considered the setting up of a select committee of the Parliament but we decided against that because we thought that the ALP might use it for grandstanding purposes.

The Hon. R.R. Roberts interjecting:

The Hon. SANDRA KANCK: I believe that that decision was correct, Mr Roberts, given the grandstanding that we have seen in the Economic and Finance Committee. We looked at putting together a panel of people from outside to conduct an independent inquiry but this would have taken time to set up and would also have involved finding funds to pay for secretarial assistance for such a panel. So, in the end, we resolved that I would conduct the inquiry, as I would be able to use my travel allowance to undertake the necessary interstate trips, and it also meant that I could begin the research immediately.

In the process of my investigation I made four interstate trips, which included two days at the Queensland power conference. I received dozens of submissions and I conducted close to 80 interviews, including three meetings with the Treasurer and two with the Auditor-General. I have granted interviews to any person, group or business that has wanted to speak with me, and I heard and considered the full gamut of those arguments. So, I say to John Olsen, 'Yes, I understand very well.' What he does not seem to understand is the fact that, because someone comes to a conclusion different from that of those in power, that does not invalidate their research.

The Hon. Legh Davis has attempted to make an issue on the question of when we made our decision. It suits him to ignore the fact that we had publicly stated that we would announce a position towards the end of May, before Parliament resumed. It was a self-imposed deadline, because we thought it only fair that the Government should be able to go into the budget session knowing whether or not it could rely on having the sale go ahead. It was also a responsible position because the Government would know what its priority on the drafting of legislation should be and the Parliament would know what weight to give to some of the legislation it would be debating. At a meeting with the Treasurer in early May, I told him that the information that was being provided to us was not satisfactory. But we continued to conduct our investigation in good faith, assuming that the convincing information would arrive on my desk any day.

In the week before Parliament, given that we had intimated that we would make an announcement in that week, we came to the conclusion that, on all the available evidence, we would have to not support sale. After three months of investigation, we had already amassed substantial information to indicate that sale was not in the best interests of the State, and the fact that the information we were seeking was not forthcoming from the Government only added to the view that the Government was hiding something. We were within days of making an announcement when the Treasurer asked us to hold off on our decision until after the budget had been delivered, promising that information on the SAFA loan portfolio and other information would soon be provided. So, we held off and continued to analyse material that continued to flow in, including the many pages of information which the

Premier provided about SAFA loans, and we continued to speak with many people about the whole issue.

That further analysis failed to provide the evidence to back up the Government's claims. The Premier had stated that the sale was necessary because of the warnings spelt out in the Auditor-General's Report—principally, the risk of the loss of competition payments, the risks arising from participating in the national electricity market, and the fact that, into the bargain, we could reduce State debt. However, based on the many inputs into our investigation, we concluded that the risk of competition payments as a reason to privatise is baseless. The market risks are manageable and, while there might be short-term benefits in retiring State debt, in the long term we will be worse off. My investigations also revealed other matters that caused me to come to the conclusion that our sale of electricity utilities would not be in the best interests of South Australia.

The Hon. L.H. Davis interjecting:

The Hon. SANDRA KANCK: In response to what the Hon. Mr Davis has said, Alan Fels's pronouncements have been quite amazing, given that he is not supposed to have an opinion on privatisation. The position he has taken has been quite astounding and I believe it has put the ACCC in disrepute. I intend now to look first at the three reasons given by the Government as its justification for sale and then to consider the many other concerns that emerged during the course of my investigation. I travelled to Canberra to meet with Alan Asher, Deputy Chairman of the Australian Competition and Consumer Commission, and I was assured that the ACCC has never made a sell off of assets a condition for delivery of competition payments. Please note that, Hon. Mr Davis. Alan Asher's view was that South Australia's sin was in the holding up of the implementation of the national code by failing to ringfence between the vertical levels of the South Australian electricity industry.

In Melbourne, Ed Willett of the National Competition Council told me that the outstanding issue for South Australia is that of the failure to disaggregate, especially the issue of the separation of distribution and retail. Neither of these men told me that we needed to privatise. For both agencies the issue was the adequacy of the efforts made by South Australia to effectively disaggregate. Queensland has demonstrated that it is perfectly possible to disaggregate without privatising. At the Queensland Power Conference I attended in May the then National Party Minister for Mines and Energy expressed great confidence that the electricity industry in Queensland will continue to return good dividends to the State. I point out to the Hon. Mr Davis that the COAG agreement of 1995 is the best source of information on this subject and it states:

> This agreement is neutral with respect to the nature and form of ownership of business enterprises. It is not intended to promote public or private ownership.

Nevertheless, the Hon. Legh Davis contends that this is not the case and suggests that the Treasurer will take this up when he speaks later. If the ground rules of that COAG agreement have been changed, why have not the people of South Australia been informed so that we can begin to go about the process of extricating ourselves from this damned agreement? I will be interested to hear what the Treasurer has to say about this. It is interesting to note that in the Premier's statement to Parliament on 26 May there was no mention of the risk of competition payments, because he said:

> . . . the sale of our power utilities is being driven as much by the need to deal with the national electricity market with its inherent risks and uncertainties as it is by our need to free this State from the burden of debt. . .

There is no mention of competition payments: it is simply not an issue. Let us look at the risks in the national electricity market. In regard to Optima we have said that a risk does exist but we believe that the risk is manageable. John Olsen has always known that that risk was there. You need look only at the *Hansard* record on Bills such as the Electricity Corporations Bill, the Electricity Bill and the Competition Bill. Nothing has changed in the level of risk, except that the Auditor-General drew Parliament's attention to it.

The Hon. M.J. Elliott interjecting:

The Hon. SANDRA KANCK: Yes, and as the Auditor-General told the Economic and Finance Committee, these risks have been capable of identification for a number of years. Generating companies have mostly fixed costs. The risks lie in periods of low prices in the pool and Optima has contracts with ETSA which reduce that risk. The price in the pool for generated electricity will generally be low while there is excess electricity available from New South Wales. Estimates are that this over-supply might last up to five years, that is, by 2002, but it could be less than that.

At any rate, for that same time period, Optima has extensive vesting contracts with ETSA which will provide it with protection against market shock. Additionally, when the South Australian market cuts off from the NEM (when the interconnectors are full, which is most of the time) Optima is able to exercise market power. When the over-supply in the NEM balances out, prices for generated electricity will go up. Optima will be protected from low prices during the period of over-supply, and it will be in a position to capitalise on the increased prices after that.

It is important to get the framework in place and capable people to work within that framework to deal with the risk. When I met with Fraser Ainsworth and Ron Morgan of Optima Energy, they told me that, in that part of their business which is exposed to the market, Optima Energy personnel are as good as any in dealing with market risk. For instance, in recent times, they have taken on a former employee of Smorgons, who is well trained in handling risk, and they also have an ex-Santos employee who knows a lot about the gas market. When questioned by the Economic and Finance Committee as to whether or not their organisations were capable of managing that risk, the representatives of Optima Energy expressed confidence in their abilities to do so. ETSA management similarly expressed confidence in their ability to manage market risk.

The Hon. L.H. Davis: They would, wouldn't they?

The Hon. SANDRA KANCK: Yes, that's an interesting point, Mr Davis, because you may recall that it was ETSA that wrote the letter to the Premier—I suspect on request—suggesting that they needed to be sold. However, when ETSA management appeared before the Economic and Finance Committee and they were asked a straight question as to whether their people would handle the risk, their answer was, 'Yes, they could.' ETSA management and Optima management have confidence in their employees to handle the risks and we, too, have confidence in the staff of ETSA and Optima to manage those risks. That is because there are ways of minimising risk such as with hedging contracts, and ETSA and Optima already have these. As the Auditor-General told the Economic and Finance Committee, the risks are not insurmountable but they require close management.

This Government is dishonest in being willing to quote the Auditor-General on one half of the argument and not the other half. The Government used the Auditor-General's Report as the launching pad for its betrayal of the electors of South Australia. Let us be really clear about what the Auditor-General said, and I am quoting from his report:

> The acceptance of corporate commercial risk by Governments is unremarkable and a necessary consequence of Government-owned enterprises operating in competitive environments. However, in accepting corporate commercial risks, Governments should ensure that an appropriate control framework exists and is maintained and should undertake a due diligence process which ascertains the level and quantum of risk involved.

This is steady-as-she-goes stuff. It is not 'Sell, sell, sell!' Why is the Government willing to quote the Auditor-General on one half of the argument and not the other half? The answer is that it suits them to distort the arguments.

At the moment, in what is known as NEM-1, which is the first operating stage of the national electricity market, South Australia is trading effectively as a region within the market. This is working well and could operate indefinitely. Everyone in the industry knows this, but ideology is driving the arguments for us to go into an expanded and privatised market. The Government argues that Optima Energy is at risk, because anyone can come into South Australia and build a new power station. That is the certainly the case, but will they? The reality is that, because it costs between $1 million and $2 million per megawatt to build a new power station, no company will invest in a new generation plant unless there are 30 year contracts for sale of the electricity.

There is another aspect to be considered in the Government's risk assertion that a private company will drop into South Australia any day now and build a power station. When Torrens Island Power Station has a couple of days in a row when all the generators are going, the gas pressure dwindles and the boilers have to be switched over to using oil. There is not enough gas at present to keep electricity going in South Australia at peak periods. If we do not have enough gas now just to keep TIPS going, what will be the fuel source?

Members interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: I know of no plans to duplicate the pipeline from Moomba. It is not an insurmountable problem. It could be overcome by importing black coal from New South Wales—

Members interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: Given that a carbon tax in some form is inevitable in this country, it would be a very expensive option to have to convert to another fuel source within 10 years of commissioning the plant. The Government also talks of large electricity users setting up their own generating capacity. Of course, they have always had that option but most have rarely done so because it is not economically sound. You only have to look at the Roxby Downs expansion EIS to see that Western Mining Corporation considered that option and rejected it. The most sensible option would be to do what ETSA and later Optima management wanted to do—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: The Hon. Legh Davis had his opportunity to speak the other day, but obviously he missed saying what he wanted to say and now he is trying to get in on the argument. I will repeat what I just said, because the Hon. Legh Davis was not listening: the most sensible option would be to do what ETSA and later Optima management wanted to do, and that is to re-power Torrens Island Power Station. The Employers Chamber, which has been critical of me, said in a paper it had prepared before it was aware that the Government was to go down this path and break its election promise:

> Additional generation capacity in South Australia would obviate the need for added interconnection and may produce lower pool prices in the State than an interconnection.

The Hon. L.H. Davis: Where does the money come from for that?

The Hon. SANDRA KANCK: Optima already has that money because, when ETSA and Optima were split, Optima was left debt free and ETSA took on the debt. In regard to transmission and distribution, that is, the poles and wires, as far as risks are concerned—

Members interjecting:

The PRESIDENT: Order! The honourable member is on her feet.

The Hon. SANDRA KANCK: —the principal risk is a regulatory and not a market one. The poles and wires business is a monopoly. It is nonsense to suggest that a second set of poles and wires would be run down your street, so ETSA will remain in a sound position. There are other regulatory risks that some would argue might be of concern, such as that in the longer term the CPI minus X regime will be instituted. That means that on an annual basis the companies running the poles and wires will have to apply for an increase, and it will be based on the CPI increase for that year minus a factor that the ACCC will take into account, depending on some efficiencies having been met by the operators of the assets. Of course, if X is nought, which it quite feasibly could be, and you get a CPI increase because you have those efficiencies in place, there is no risk at all.

ETSA's poles and wires are a monopoly business. Although it is likely that in the longer term ETSA might not get as much return on them as it would like, because of the prices set by an Independent Regulator, ETSA is in a position of assured return. There is no good argument for substituting a public monopoly with a private monopoly. The Government states that a large number of retailers will be competing against ETSA and that ETSA will suffer significant trading losses as a consequence. The number claimed the other day by the Hon. Legh Davis was 27, but that is quite incorrect, because that is the total number of retailers that could rather than will enter the South Australian market.

I refer again to the paper prepared by the Employers Chamber in which it is stated that retailers can use swaps and other risk management devices in order to control the risks involved in the prices at which they buy. Might I say, too, that the exceedingly strange split of Optima into three bodies to be imaginatively named Coal Co, Gas Co and Peak Co will not help in the competition for lower prices because they do not provide competition representing respectively base load, intermediate load and peak load.

The Hon. T.G. Roberts interjecting:

The Hon. SANDRA KANCK: Yes; I think there will be some very good salaries for the directors of those companies. ETSA and Optima are crucial policy tools for State development.

The Hon. R.R. Roberts interjecting:

The Hon. SANDRA KANCK: Do not encourage him; he will come back in! If Parliament agreed to a private company managing that risk, it would also be agreeing to a private

company deciding our energy future. We believe that the South Australian Government should have that role. If and when a privatised electricity utility falls over, will the Government stand back and do nothing? Of course it will not. Whether or not we own the electricity utilities in South Australia, no Government could face an election justifying non-intervention in that circumstance. Hence the taxpayers carry the ultimate responsibility no matter who owns the utilities.

While this Government has claimed that the Auckland experience had nothing to do with privatisation, Mercury Energy is a structure in which the Government had relinquished control. This is best demonstrated by the New Zealand Prime Minister claiming that the Auckland situation had nothing to do with the Government and that consumers who were upset should talk to Mercury Energy. Mercury Energy was exposed chasing the profitable and racy bits of industry expansion, which is definitely not the role of a public corporation. It was behaving just as we anticipate the companies looking to buy our power utilities will behave.

The reduction of State debt is the third part of the Government's rationale for the sale of ETSA and Optima, so let us look at that. After the 1993 State election, we had the Brown Audit Commission; after the 1997 State election, it appears we will have to have the Olsen mini-budget. Governments usually adopt a strategy of being fiscally tough in the first budget after an election and gradually ease back in the ensuing years, becoming more generous as an election year approaches. This Government is no different except that, as the previous incumbent, it needed a scapegoat. The Treasurer, Stephen Baker, in his 1997 budget speech said:

> . . . our fourth budget, marks a remarkable and historic turnaround in the financial and economic fortunes of our State. . . In the coming financial year, South Australia will pay for both its day to day spending and its capital works from the income it earns . . . Improvements in the performance of Government owned businesses, particularly ETSA Corporation, have also exceeded expectations.

And listen to this coming from the Treasurer of South Australia last year:

> . . . a recent study of mainland States' business infrastructure costs—covering electricity, gas, rail freight and waterfront—showed businesses in South Australia enjoy a major cost advantage over all other States.

He spoke also about 'the lift in confidence of South Australia as a place to invest'. So what has happened since the 1997 State budget? The answer is a State election. The Government almost fell and the Premier lost his authority. Selling ETSA was grasped at like a lifeline.

While reduction of State debt has continued to move to the pivot of the Government's rationale for sale, it is important to recognise that South Australia's public debt per capita (1992 figures) is below the average of OECD countries—and below Belgium, Italy, Ireland, Greece, Canada, Spain, the United Kingdom, the United States, France, the Netherlands, Austria and Denmark—so why the need for a fire sale? Furthermore, our State debt as a ratio of gross State product is at its second lowest level in 30 years. I have some figures which the Treasurer provided to me at my request and which indicate that in 1994, when the Liberals had been elected, debt as a percentage of gross State product was 26.4 per cent; in 1995, it was 25.4 per cent, still lowering; in 1996, it was 21.9 per cent, still lowering; in 1997, it reached 20.7 per cent—and at that point the Premier panicked.

An honourable member: It's getting too low.

The Hon. SANDRA KANCK: It must be. He obviously does not want it to keep getting low.

An honourable member interjecting:

The Hon. SANDRA KANCK: Well, it does not look like an excuse to flog off ETSA, but somehow or another they have logic which enables them to get to it. Since the announcement by the Premier of his intention to sell ETSA and Optima some of the gloom and doom merchants are saying that, if we do not sell, South Australia will be down the tube. Yet, the only thing that has changed fiscally since the 1997 budget was delivered is that some of the debt has been repaid.

I am becoming increasingly angry at the way this Government, in the process of trying to talk up the sale, is talking down this State's economy. At a public meeting held in Port Lincoln to discuss the sale of ETSA and Optima, the Treasurer began with his gloom and doom message about how terrible the State debt is. I do not know if Mr Lucas is any good at reading body language, but it was remarkable, metaphorically, to see and feel the temperature in the room go down.

Last year, in the hype surrounding the State budget, we were told that the State Bank was behind us and polling that the Democrats commissioned before the State election revealed that the public's confidence in the State had improved. The public was glad to hear that message because they had become sick of the Government's closing down and selling off things, using State debt as the rationale. Business in this State is looking for a positive message so when the Government, using its mouthpiece of the Employers' Chamber, says that South Australia will be a basket case unless we sell, ill will is created in the community and the economy is damaged. What other message can they read into these pronouncements, other than that anyone considering expanding their business or investing in South Australia ought to reconsider because we are obviously on the brink of collapse?

The Hon. Diana Laidlaw interjecting:

The Hon. SANDRA KANCK: New South Wales is an interesting situation. They got the Sydney Olympics and they know, given international experience, they will have a real problem in a few years. We do not have an Olympics coming up for us to deal with. We have debt, as I said, that is at 20.7 per cent of gross State product. There is just no need to panic. If the sale of Optima Energy and ETSA is the only way this Government is able to see its way forward in managing this State, then it is showing itself up as an incompetent money manager. John Olsen ought to do what he threatened to do last year: support a no confidence motion in his own Government. Then we could have what the people of South Australia desire—an election openly fought on the issue of privatisation of our electricity assets.

If Parliament agrees to the sale, how much money will we get? The general consensus is a figure between $4 billion and $6 billion, but we know other factors will drive the final price downwards. The Edison Capital arrangement will result in a further discount to the sale price of ETSA of between 8 per cent and 12 per cent. A question we asked of the Minister back in March about the effect of the EDS contracts on the sale price has still not been answered—a sure sign that it cannot be good for the bottom line.

The regulated rate of return on the poles and wires will be crucial in deciding the final price and, based on the Tamblyn draft decision in Victoria a couple of months ago, this will be another factor in reducing the anticipated return for the Government. Members might have seen newspaper advertise-

ments by McKinley Law who have been interested to talk with electricity consumers about ETSA easements on their properties. The State via a publicly owned ETSA having access to people's properties is one thing, but it will be a very different matter if a private owner wants that same access. Will a private owner of ETSA be forced to compensate property owners on land on which transformer boxes are located? What effect will the uncertainty regarding easements have on the sale price of ETSA? We believe it will be another factor driving the price down.

I refer members also to an article in the *Financial Review* of 7 July entitled, 'Asian turmoil may upset privatisation programs', which suggests that the sale price for South Australia's electricity utilities may not be as high as the Government might have anticipated because Japanese banks, who were involved in what they term 'aggressive lending', are withdrawing or reducing their presence in Australia. So, if you add the information about the Cayman Island lease, the arrangements associated with EDS, the uncertainty about the regulated rate of return on the poles and wires, the issue of compensation for easements, I have no optimism about the Government being able to get a good price for the sale of ETSA or Optima.

We have not disagreed with the Government that debt can be retired, but we question the cost. The Quiggan and Spoehr reports suggest that unless we can get at least $7 billion for the sale we cannot even begin to break even with the consequent loss of earnings to the State which currently flow from our electricity utilities. We will lose more than dividends and tax equivalents if we sell ETSA and Optima; we will lose the interest being paid to SAFA, we will lose retained earnings, and we will lose a sustainable income base. By the way, I think Mr Davis should note that we have never expected that the dividend levels would remain at the sort of levels that we have seen recently. We concur with the Auditor-General on that matter. Very recent lessons of history show that money which many expected out of the private management of SA Water was not directed into lower water rates for consumers.

The Hon. R.R. Roberts: Indeed, the opposite occurred.

The Hon. SANDRA KANCK: In fact, the opposite occurred. If the price is high enough, we have agreed that there may be a benefit but it is likely to be for even less than a decade. We have no idea, and the Government clearly has not even considered, what the impact of the unavailability of that money will be on future generations.

The Hon. Legh Davis demanded to know what was wrong with the Sheridan report. We met with Mr Sheridan and discussed his report with him. In his covering letter to the Premier, Mr Sheridan observed:

> While these are not the only questions that could be asked, I recognise they are the most pertinent where the financial—

and he emphasised 'financial'—

> benefits of any sale are under scrutiny. As requested, I have restricted my evaluation to these questions.

I queried Mr Sheridan about those comments, and he said that economic issues made up 70 per cent of the weighting that he gave to this matter but that other issues included reliability and supply. We spent some time labouring the point with him about the transmission and distribution assets. He did not seem to have been made aware by the Treasury advisers who had assisted him that the risk to the poles and wires was a regulatory one and that no-one would erect a second set down every street.

Mr Sheridan's eventual position when he became clear about this was that this situation made the role of the Regulator much more important and that if we do not sell off the poles and wires there will be a perception that the Government would be placing pressure on the Regulator and that the Regulator would not be seen to be truly independent. I am not about to make my decisions based on perception.

The Government has argued that selling off ETSA and Optima to retire State debt will increase our AA rating to a AAA rating. The differences in interest rates available as a consequence of achieving the higher rating are quite minimal, and selling ETSA and Optima to achieve that rating does not make sense. Mr Sheridan told me that the difference between a AA rating or a AAA rating could mean a difference of up to .5 per cent in loan rates. His justification for making a decision based on that was that it would give business confidence—but, again, we are talking just about perceptions.

Quiggan and Spoehr were much more convincing in terms of estimates of income forgone, and the Sheridan figures do not take into account growth of electricity demand. On the basis of both what is written in the Sheridan report and from speaking with Mr Sheridan, I did not come away with any real confidence that his views could be used to justify the sale.

In talking up the State's debt, the Premier and the Treasurer keep claiming that we have a $2 million per day debt. I have challenged the Treasurer on this because the figure is $1.6 million a day. His response was that it is easier to round the figure up. It may be easier to round it up, but it would be much more honest if it was rounded down to $1.5 million. However, this does not suit the Government's scare tactics. If the debt has suddenly become a major issue—and remember, it was not 12 months ago—the Government must explain what has happened to cause it to become a major issue. It is using State debt as the justification for sale, and it is up to the Government to provide the evidence. It has failed to do so.

The Hon. R.R. Roberts: It's another porky pie job.

The Hon. SANDRA KANCK: That is a cruel thing to say, Mr Roberts, but it might be. The Government argues about the risk to the taxpayer, yet no-one talks about the costs that will have to be borne by consumers in terms of loss of reliability of supply. Whether or not supply is guaranteed to consumers is up to the individual States and the conditions of licence. In the first 18 months of privatisation in one outer suburban area of Melbourne there were more than 40 power interruptions, some lasting up to half a minute, but each time all the electronic appliances had to be reset. This has nuisance value to domestic consumers but it has a cost factor for business consumers. For instance, work is lost on computers at the time and employees must spend time resetting electronic equipment.

When I went to the Queensland power conference one of the speakers there, Chris Trainer, who is the legal counsel for the gold producer Placer Pacific, had some comments to make about that. He said that a major issue for industry as a consequence of deregulation is loss of supply. In fact, on behalf of his company he is very angry about what is happening. He made the comment that prior to the so-called reforms they had a service which could be relied on. Certainly they paid for the privilege of having a reliable supply but for business a reliable supply is really important. He commented about the Auckland situation, as a lawyer, that part of the legal determinations which follow the blackouts will be about maintenance and repairs, which are one of the first

things that go with a privatised entity. As a gold producer, Placer Pacific needs to have its plant operating night and day, 365 days per year. He commented that the cost of electricity is not everything; it is important, but not everything.

The Hon. T.G. Roberts interjecting:

The Hon. SANDRA KANCK: That is right: if the power is down for more than three hours in aluminium smelters the whole row of pots is frozen, so for business it is terribly important to have that reliability of supply. A new investor will want to get what he or she considers as an adequate return. A financial consultant has suggested to me that more than 17 per cent return would be sought for a generating company. This must eventually be reflected in the price we pay directly for electricity and in the price we pay for the goods manufactured using that electricity. Industry sources both here and interstate assure me that the current artificially low price of generated electricity will not remain low and, when it does go up, it is likely to skyrocket. In John Olsen's 17 February statement he said:

> Our research indicates that the fierce competition between suppliers always results in prices dropping.

Again, maybe we are looking at the lack of value one gets from researchers and consultants, because he clearly had not been told about the Queensland experience in January and the lack of correlation between supply and demand in Victoria. That statement of the Premier's reflects ideology and not fact. The higher the price paid for ETSA and Optima, the greater the price increases will be later—

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: Mr Redford says that is rubbish. He needs to look at what happened to Queensland in January and then he will know it is rubbish.

The Hon. A.J. Redford: That's what I said: rubbish.

The Hon. SANDRA KANCK: The rubbish is in the Premier's statement. What might be considered good for the State in the short term must result in a down side in the longer term. At stake in this whole argument about the sale are issues of good governance, which are not being addressed. Where does the buck stop? If we retain ETSA and Optima in public ownership it stops with the Minister, and one only has to look at last year's big pong to see the value of that. The Government had to intervene. If SA Water had been sold outright rather than having private managers, the Government would not have been able to step in and demand some answers.

Just a few weeks ago when giardia and cryptosporidium were found to be present in Sydney's water supply, because the State Government was still ultimately in control in New South Wales the Premier was able to step in and take over. By contrast, when the power went down in Auckland, New Zealand's Prime Minister stated that it had nothing to do with the Government and that the consumers had to sort it out with Mercury Energy. Sale of our utilities would mean that the South Australian Government was putting itself in the same Pontius Pilate position as the New Zealand Government.

The Hon. A.J. Redford: Rubbish!

The Hon. SANDRA KANCK: South Australians would lose the right they now have to demand accountability from their utilities and would be denied information to which they currently have access through annual reports and freedom of information. Again I note the Hon. Angus Redford saying 'Rubbish'. He should say that to the Auditor-General, because that is what the Auditor-General told Parliament through the Economic and Finance Committee. Last year the Liberal Party went to the people of South Australia and said, 'We want to represent you.' Now it is effectively saying, 'We want to represent you, but in regard to accountability on electricity issues we don't want to.' So, why did it bother asking people to vote for it?

Who will be keeping an eye on whether the assets are properly maintained in a privatised entity? The general public will have no way of knowing, other than for the occasional engineer who might privately reveal his concerns, as many of them are doing in Victoria, that the assets are being run down. The first they will know is when blackouts occur. If the Government puts itself in a position where it is unable to exercise control, it places the State in a difficult position in the long term. Any controls that we can put in place are only as good as the legislation that passes this Parliament, and the introduction just two weeks ago of the accompanying legislation for the Industry Regulator does not give enough time to ensure that we are getting the best. But the Government, in its ideologically blind haste to privatise, is prepared to push these mechanisms through Parliament.

One of the real concerns about the national electricity market, especially when combined with privatisation, is the so-called light-handed regulation that the assorted regulatory and enforcement bodies are creating. The Hon. Legh Davis claims that the US system is transparent. If it is, it is because of the much tougher regulation that Governments in the US have in place. In Victoria, when damage has occurred because of electricity outages and surges, one can go to the electricity Ombudsman to have the matter sorted out. But she has an upper limit of $10 000 on which she can adjudicate; thereafter it must be sorted out by litigation, which does not make business happy if they have to take it to the courts with all the attendant costs. For domestic customers, that limit is not a problem.

However, early in July, Citipower, one of the distributor-retailers, launched Supreme Court action to challenge that power to award compensation. This is the sort of irresponsibility that I believe we can continue to expect from foreign multinationals operating our electricity system. Our publicly owned utilities have acted in a responsible way, but the South Australian Government wants us to be like Victoria. Why on earth does the Government think that this is a good thing? Many South Australians are angry about the Government's use of highly paid consultants to secure the sale. South Australians are angry about the amounts of money that the Government is handing over to these consultants; and they are angry that the lead consultants, Morgan Stanley, are from overseas, thereby ensuring that more of our money leaves the country—

The Hon. A.J. Redford: What did yours cost?

The Hon. SANDRA KANCK: —and they are angry about the money spent on advertising campaigns when they have been telling the Government so clearly that they do not want the utilities sold. My consultants cost me nothing: I had many people who were prepared to give advice quite freely, including many people from within ETSA and Optima. I was most interested to read a story in the Australian *Financial Review* of 23 July about an out of court settlement between Morgan Stanley Dean Witter and Co and Orange County, California. The report indicates that Morgan Stanley has agreed to pay $US69.6 million to Orange County by way of an out of court settlement for bad investment advice. The same report states that KPMG Peat Marwick, which is also advising the Government on privatisation, had earlier settled out of court for $US75 million.

Orange County filed for bankruptcy in 1994 after losing more than $US1.6 billion on investments and securities. It then proceeded to sue nearly 20 brokers and other companies who had provided the county with investment advice. Morgan Stanley and KPMG were both included in that action. Morgan Stanley asserts that it had done nothing wrong and had settled to avoid the cost and disruption of litigation. It would say that. It is worth noting that Merrill Lynch, Nomura Securities, First Boston and other parties have so far agreed to pay $US739 million in settlement.

I wonder whether the Premier and Treasurer were aware of the Orange County lawsuit against Morgan Stanley when the firm was hired as lead advisers in the sale process. In the event of sale, will Morgan Stanley be providing investment advice to the Government for the portion of the sale proceeds that cannot be profitably used to retire debt in the short term? It is interesting that no-one has commented on this case outside Parliament; obviously people are scared that they will be sued by Morgan Stanley. However, it is important that this be put on the record, and I note the Hon. Angus Redford has had little to say on this. As best as I can determine, this is the same Morgan Stanley that is advising the South Australian Government about the sale. It does make one wonder about the quality of advice being given.

I have had questions on notice on file since 18 March seeking information about the first round of the Government's pro-sale advertising in February, but thus far the Government has failed to provide the answers. Does it not know or is it that it hopes that, by not telling, the public will somehow be fooled? If that is what the Government is thinking it has it wrong. Even the cover of that first leaflet leaves one feeling cynical with its title, 'Electricity Reform—your questions answered'. Until about 20 years ago the word 'reform' had positive connotations, but the bulk of Australians do not consider what is happening now to be positive. Unfortunately, economic rationalists who should be using the more appropriately hyphenated word 're-form' have misappropriated the word 'reform' so that its previous connotations have been removed.

In the 21 July edition of the *Financial Review* a letter to the Editor quoted Adam Smith's *Wealth of Nations*. Although this was said in 1776, it is utterly relevant to today's debate. This is what Adam Smith had to say:

> The interests of the dealers, however, in any particular branch of trade or manufactures is always in some respects different from, and even opposite to, that of the public. The proposal of any new law or regulation of commerce which comes from this order ought always to be listened to with great precaution and ought never to be adopted till after having been long and carefully examined not only with the most scrupulous but with the most suspicious attention. It comes from an order of men whose interest is never exactly the same with that of the public and who accordingly have upon many occasions both deceived and oppressed it.

They were wise words in 1776 and even wiser words now. All the evidence is that the Australian electricity industry will be dominated by large international multi-utility companies. ETSA and Optima will be flogged off to foreign owners and the head offices of ETSA and Optima will be interstate, if not overseas.

At the local level it is only a few months since South Australia shared the resulting pain of the head office of John Martin's being located interstate. The goods that were stocked in the Adelaide stores were those that people living on the east coast assumed we would like and they got it wrong. The cost was the closing of one of Adelaide's icons. Why cannot the Government learn from these mistakes?

It is not clear that it is cheaper to run these utilities under a private structure. For instance, a private operator will have to borrow money at higher interest rates than would the public sector. They must also pay a return to investors, resulting in higher cost structures. This means that they have to be more efficient in their business operations, loyalty to shareholders leading to reduced maintenance.

There is a further risk to the South Australian economy of having multinational companies in charge and that is the taking of profits offshore. This cannot help the South Australian economy. We have only to look at what is happening in Victoria to gain some sense of what could happen with the multinationals. Electricity consumers have experienced an increase in surges. The distributors have tried to argue that this is not their fault and have been reversing the responsibility by encouraging consumers to install surge protectors. There have been more incidents of 11 or 22kv lines dropping on to the 240 volt lines. This has been due largely to maintenance problems, particularly of cross-arms, but the distributors are blaming possums—as though there were no possums to cause problems when the SECV ran the system.

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: Go and look at the newspapers and see that the distributors have been claiming that. The private operators have been able to inherit a healthy system in Victoria—what the private market refers to in a derogatory manner as the 'fat'. This is a system that had adequate routine maintenance, and it meant that occasionally there were staff who were under-utilised. But in the brave new world of electricity reform, businesses are resetting their time switches—on some occasions many times a day—because of momentary surges.

In relation to the privatised Victorian system, one has to ask two main questions: first, 'Is the system better managed?', to which the answer is 'No'; and, secondly, 'Is the electricity used more wisely?', to which, again, the answer is 'No.' The incentives in the system are to reduce maintenance and run down assets, and who keeps an eye on whether the assets in a privatised entity are properly maintained?

I want to refer to a paper written by Alan Asher of the ACCC. It is paper 10/1, published on 10 March this year in the *APPEA Journal*, and is titled, 'Network industry regulation and convergence in service delivery: challenges for suppliers, users and regulators'. This gives cause to reflect about the advisability of handing over our utilities to private owners, particularly to multinationals. Under the subheading, 'Challenges for suppliers, users and regulators', Asher discusses a number of issues relating to national and international players. I quote the key points that he makes, as follows:

> The increased globalisation of players, which increases their leverage in dealing with Governments and regulators and may complicate effective regulatory compliance if key decisions are taken offshore. . . is a common problem to be resolved by national Governments. . . the regulated party knows its own business best and is in a position to colour the presentation of information to the regulator.

The Hon. Angus Redford has nothing to say about that. Again, Alan Asher—

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: These statements come from Alan Asher, Deputy Head of the ACCC, Mr Redford. I will continue to quote from Alan Asher, as follows:

Privatisation and contracting out of utility services have led to the loss of a number of information, privacy and review mechanisms, and to 'commercial in confidence' being open to abuse in attempts to avoid accountability for poor performance.

I am quite happy, Mr Redford, in response to your interjection, to give you the original documents so that you can see for yourself that nothing is being quoted out of context. I do not operate on the same principle that some backbenchers in this Government operate. Further, Alan Asher said:

. . . the division of regulatory and legal responsibility according to tradition is liable to leave the consumer unprotected against shortcomings in the delivery of the product.

Mr Asher concludes by observing that:

The ACCC and any single regulator have neither the powers nor the resources to address all of the above issues, but they can pursue strategies to maximise their effectiveness within the ambit of legislation reflecting the policy framework.

I am left without a great sense of confidence as a consequence of those observations. When I met with Alan Asher he informed me that the various regulators now meet on a quarterly basis to share their experiences in dealing with these multinational companies, which are very adept at working their way around the rules. However, it is a bit like getting out and weeding the backyard for a few hours every three months when the weeds have been growing there every day during the same period.

The market responds to the immediate and very short-term future. As an entity, it is not interested in the issues of social justice and environmental quality unless it is seen that there is a quick buck to be made out of it. The Government's hell-bent intention to sell ETSA and Optima Energy in order to reduce State debt is remarkably similar to what we see when Third World countries are offered debt for equity. It is both remarkable and very scary. Looked at in the context of the multilateral agreement on investment which our Federal Government has been negotiating to the advantage of multinational companies, the sale of ETSA and Optima to a foreign company becomes even more scary.

I want to make a few observations about the Bill itself, apart from the question of sale. The legislation does not distinguish between ETSA and Optima, which I find very strange. When this Chamber passed the original Electricity Corporations Act in 1994, I was successful in adding to section 5 a new function, that of 'carrying out research to develop greater use of renewable energy sources', and to section 6, relating to electricity distribution functions:

. . . carrying out research and works directed towards energy conservation, and actively encouraging, advising and assisting customers and potential customers of ETSA Power in energy conservation and in the efficient and effective use of energy.

Having got those two amendments in, even though this Government has shown minimal commitment to the development of ecologically sustainable energy, I am concerned to see that schedule 2 of the Bill states that:

The Minister may, by direction to an electricity corporation, relieve it of functions in consequence of action taken under the Electricity Corporations (Restructuring and Disposal) Act 1998.

Although the Government is not revealing the status of these functions as amended by me in 1994, the legislation gives the Minister *carte blanche* to do whatever he wants, and I predict that these functions will be removed because a new company would find such requirements restrictive.

I cannot let my observations about this Bill pass without making sure that we record the role of the ALP in getting us into the mess we now face as a consequence of competition policy and the national electricity market. It was a Labor Government at Federal level that got the competition ball rolling, and it was a Labor Government at State level which supported it.

The Hon. R.R. Roberts: You were doing so well, too.

The Hon. SANDRA KANCK: I knew that I would get Mr Roberts upset. In the past four years we have seen a succession of Bills dealing with the electricity industry which the Democrats have opposed but which—

The Hon. T.G. Cameron interjecting:

The Hon. SANDRA KANCK: No, we did not slip through the middle, we opposed it. We got rolled on all of them because Labor and Liberal voted together. In debate on the Electricity Corporations Bill in November 1994, the member for Hart (Kevin Foley) clearly recognised the huge potential for damage which corporatisation was to set in process, and I quote from Kevin Foley as follows:

We are talking about having to walk a very fine line between what is important for the competitiveness of the national economy and what is important for the sovereign right of a State. . . we are having to deal with something thrust upon us by the Federal Government. . . you cannot ignore it or oppose it.

By the way, he neglected to mention the role that a State Labor Government played in that. He went on to say:

As long as the Government is prepared to acknowledge that the purest form of Hilmer for this State will cause irrevocable damage to our industrial, economic and domestic base, I am there with the Minister. . . The Opposition cautiously supports this Bill. The jury is still out on the Bill.

I consider that was just utter irresponsibility on the part of the Labor Party. Annette Hurley observed:

We are busily dismantling this successful corporation into neat little units which, interestingly enough, are also nice bite-size chunks to sell off or privatise later.

I find it lamentable that the Opposition knew so well where these so-called reforms were taking us and went ahead with them anyway. It supported this legislation and a subsequent restructuring Bill; it supported the Competition Policy Bill and it supported the National Electricity Bill knowing what it could lead to. The Opposition has lamely cried out that it had no option but to go down this path, but it started it and it is culpable in the position in which Parliament now finds itself. John Olsen was there when those comments were made in 1994. So, even if he had not worked out the risks for himself, his attention must have been drawn to it during the debate. His response was:

We have not attempted, and nor will we attempt, to do what Victoria did in relation to its power utilities. First, South Australia has a different sized economy from that of Victoria, so we in South Australia cannot necessarily do what Victoria did;

I am certainly unaware of the relative size of the South Australian and Victorian economies having changed since 1994—perhaps the Premier knows something else. He further said:

nor, I argue, would we want to do it. With what we are proposing we will get a better outcome in the next five to 10 years than did our Victorian counterparts.

In the Estimates Committee last year he said:

Why on earth would you simply sell something when the revenue flow from that sale—that is the debt reduction and the interest saved—did not equate to the revenue flow out of the sector on an annual basis? That is just not logical.

Well, it was not logical then and it is not logical now. This Government has no mandate to sell ETSA. The Liberals went to the election stating that they would not sell ETSA and Optima. They are the ones who broke their promise and they

are the ones who need to justify their position. They have failed to provide convincing evidence and we believe that the Government's position is essentially ideological. If they are telling us the truth now they must have been telling us lies then; and, conversely, if they were telling us the truth then they must be telling us lies now. Which is it?

Either way we have very good cause to distrust them. Last week the Government tabled 40 pages of amendments to this particular Bill, adding credence to a commonly held view that the Government does not know what it is doing. This Government is lacking in three areas: it does not have the mandate to sell ETSA and Optima; it lacks integrity; and it no longer has the trust of the people of South Australia. I conclude with a short English poem written 200 years ago when George III was handing over the common land to the already rich. When I spoke at the public meeting at Port Lincoln a few weeks ago I quoted the same verse. It expresses what I, the Democrats and thousands of South Australians feel about this tainted and discredited Government. The poem reads:

The law locks up the men and women
Who steal the goose from off the common
But leaves the larger villain loose
Who steals the common from the goose.

Mr President, I strenuously oppose the second reading.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

WHEAT MARKETING (GRAIN DEDUCTIONS) AMENDMENT BILL

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

That this Bill be now read a second time.

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

Leave granted.

The purpose of this Bill is to provide for deductions from the sale of all grain crops in South Australia, and the application of those deductions to uses for the benefit of the South Australian grain industry.

Specifically, there are two deductions involved. The first is a research levy for the South Australian Grain Industry Trust Fund created by the establishment, in 1991, of a trust deed between the then Minister for Agriculture and the then United Farmers' and Stock Owners (now South Australian Farmers Federation). The second is a levy to support the activities of the Grains Council of the South Australian Farmers Federation.

While the research levy has been in place for seven years, the Grains Council levy is newly established by this Bill.

Since the establishment of the research levy in 1991, deductions have been made from the sale of wheat and barley. In more recent years, market demand has provided an opportunity for the South Australia grain industry to achieve rapid expansion in production of additional crops, most notably oilseeds and pulses. With the State producing a wider range of grain crops, a broader funding base is necessary for supporting crop research and other industry activities.

This Bill expands the definition of crops on which deductions can be made to support grain research and the activities of the Grains Council of the South Australian Farmers Federation. Grain is defined in this Bill according to the comprehensive definition used in the Commonwealth *Wheat Marketing Act*, which includes the full range of cereal crops, oilseed crops, and pulse crops.

In the case of both levies, the money collected is paid to the Minister who then pays the money collected under the research levy to the South Australian Grain Industry Trust Fund and the money collected under the Grains Council levy to the Grains Council. The exception to this is that, if the seller of the grain (that is a grain grower) notifies the Minister in writing that the seller does not consent to paying the levy, the money is refunded to the seller. The participation in the deductions is, therefore, voluntary.

Up until now, the grain industry research levy has been collected under the authority of both the *Barley Marketing Act 1993* and the *Wheat Marketing Act 1989*.

This Bill will provide for authority to collect the existing research levy and the Grains Council levy to be placed under the *Wheat Marketing Act 1989*. In so doing, the section of *Barley Marketing Act 1993* making provision for deductions for grains research will as a consequence be repealed. Consolidating the authority for grains industry levy collection under a single Act will avoid duplication and ambiguities regarding the authority under which the levies are collected and it will ensure that both levies apply to all grain crops.

I commend the Bill to Honourable Members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 10—Deductions for grain

In general terms, section 10 of the *Wheat Marketing Act 1989* (the principal Act) currently provides that a purchaser of wheat under the initial contract for the sale of the wheat must make a deduction from the amount payable to the seller under the contract to be paid by the purchaser to the Minister for Primary Industries, Natural Resources and Regional Development. The Minister then pays the money to the South Australian Grain Industry Trust Fund, unless the seller indicates to the Minister by notice in writing that the seller does not consent to the making of such a payment, in which case, the money is refunded to the seller. The money is used for the benefit and advancement of the grain industry in South Australia in accordance with the terms of the trust deed made for the purposes of establishing and controlling the application of the Fund. The amount of the deduction for wheat of a season is decided by the Minister on the advice of a committee of 3 persons (appointed by the Minister after consultation with the Grain Section of the South Australian Farmers Federation Inc (SAFF)).

The amendments proposed by this clause achieve a dual purpose.

The first is that deductions to be paid to the South Australian Grain Industry Trust Fund for grain research purposes may be made from the sale of any grain (not just wheat) sold by a seller under the initial contract for the sale of the grain. Grain includes wheat, barley, triticale, maize, grain sorghum, soybeans, safflower seed, sunflower seed, linseed, oats, rye, rapeseed, rice, field peas, lupins, millet, canaryseed, grain legumes, pulses, canola and cottonseed (see definition of grain in s. 3 of the principal Act and in the *Wheat Marketing Act 1989* (Cth)).

The second is that a further deduction from the amount payable to a seller of grain under the initial contract for the sale of the grain is to be made. This deduction is to be paid by the Minister to the Grain Section of SAFF. As with the research deduction, this payment may not be made by the Minister if the seller of the grain notifies the Minister that he or she does not wish it to be made. In that case, the Minister must remit the amount of the deduction to the seller.

The amount per tonne of grain in respect of each of the deductions will be fixed by the Minister on the advice of the committee (as discussed above).

Purchaser is defined, for the purposes of this section, to include the Australian Barley Board.

Clause 4: Amendment of Barley Marketing Act 1993

This clause repeals section 40 of the *Barley Marketing Act 1993*. Section 40 is substantially the same as current section 10 of *Wheat Marketing Act 1989* except that it provides for deductions for research purposes to be made from the sale of barley to the Australian Barley Board (the usual purchaser of barley). It is, as a consequence of the amendments proposed to the *Wheat Marketing Act 1989*, otiose.

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

STATUTES AMENDMENT (FINE ENFORCEMENT) BILL

Adjourned debate on second reading.

(Continued from 6 August. Page 1258.)

The Hon. A.J. REDFORD: I support the second reading of the Bill. I congratulate the Attorney-General. In the words of Sir Humphrey, this is both a bold and courageous move on the part of the Attorney and warrants close examination and, essentially, strong support. The new system of enforcement of fines and expiation fees under this legislation will do a number of things, some of which include: ensuring the Government's commitment to provide that those who can pay do pay; strengthening the integrity of fines and expiation fees as penalties; supporting the use of fines and expiation fees to secure compliance with road traffic laws; improving the rate of payment; minimising enforcement actions and removing imprisonment as a sanction for default in payment; restricting the availability of community service as an alternative to payment to those who genuinely cannot pay; ensuring that systems are socially just and culturally sensitive; and, finally, improving the range of payment options available. Historically, fine collection has always been a difficult issue—indeed, it is one that has vexed the minds of many people in the public sector who have this responsibility.

The Hon. T. Crothers interjecting:

The Hon. A.J. REDFORD: Historically, before the promulgation of an organised police force as we now know it, the Sheriff used to do it. The Hon. Trevor Crothers might also note that the Sheriff, in fact, depending upon the crime rates and the level of fines imposed, was rather more successful within the community in terms of income than other members of the community. But I digress. It is certainly not an issue that the public generally is aware of. It is certainly not an issue in terms of the rate of collection and the amount of collection and the time within which fines are paid which is brought to the attention of the public.

Notwithstanding that, the legislation has a number of features, which include: accountability to Government for collection and enforcement; the establishment of a Penalty Management Unit within the Courts Administration Authority with a single and specific focus; the use of civil enforcement measures; the changing of public attitudes to the payment of fines; increased payment options—for example, the use of credit cards; the establishment of a call centre; the sanction of imprisonment for fine default being removed and replaced by licence disqualification and seizure of property and other sanctions; the formal assessment of the means of people concerning fines; the provision for collection costs; the abolition of community service in lieu of the payment of a fine imposed by a court; and an overall reduction in time frames within which fines are to be paid.

Like the Hon. Ian Gilfillan, I have not looked at the Bill in detail and I have not had the opportunity at this stage to go through the Bill clause by clause—and, in that regard, I do have the opportunity to consider some issues at the Committee stage. However, I note that the Bill has received support from both the Australian Labor Party and the Australian Democrats. I note that, in a rather cursory speech from the Leader of the Opposition, she raised a number of issues, including: the sale of the residence; the extent of debt before sale; conditions in terms of residence or other property that are imposed; the power of the penalty unit; exempt items; and whether there would be any degree of contact before orders of sale are made. I believe that a number of those concerns are legitimate, and I imagine that they would be dealt with by way of practice on the part of the Penalty Management Unit, as opposed to any legislative requirement. She also touched on the issue of orders by a magistrate, and I will deal with that in due course.

For the second time in a row I must congratulate the considered speech of the Hon. Ian Gilfillan. His was a better considered and researched speech than that of the Leader of the Opposition, and that is disappointing when one looks at the resources available to the ALP and the number of members it has compared with those available to the Hon. Ian Gilfillan, and yet he has again shown them up. The Hon. Ian Gilfillan raised a number of very important issues, the first of which was his concern about the total removal of imprisonment as a sanction. That warrants some thought and discussion, particularly in Committee. There are occasions where imprisonment should be an option. Indeed, I know of some examples, as I interjected to the Hon. Terry Roberts the other day, where people want to serve a period of imprisonment as a protest against a bad law or the bad application of a law.

The Hon. M.J. Elliott: It's a democratic right.

The Hon. A.J. REDFORD: I have to say that there is an element in the community who believe it is their democratic right to serve a term of imprisonment.

The Hon. M.J. Elliott: About 24 hours.

The Hon. A.J. REDFORD: I have known of cases where 24 hours has gotten rid of that spirit of protest and moneys have been forthcoming. As I said to the Hon. Terry Roberts the other day, I know of a situation where a mutual friend refused to pay a fine associated with failing to vote and he desperately wanted to serve a period of imprisonment. Notwithstanding that, some 'bastard', as he described it, paid the fine, thereby avoiding his period of imprisonment and the anticipated publicity that would have been associated with it.

The second issue raised by the Hon. Ian Gilfillan was the question of a lack of consultation. The issue of consultation is important in the development of any new policy. The amount and level of consultation is always an issue that is in the eye of the beholder. My experience shows that, the longer the period of consultation, the less you get in the initial stages and you finally get some thought just before the closing date. With some of the enlightened provisions in this legislation, the thought of a lengthy consultation period and a campaign by some of the rednecks who form part of the rump of the One Nation movement does not fill me with any great prospect that good and enlightened legislation such as this might make its way through Parliament.

The other issue raised by the Hon. Ian Gilfillan is the question of who is the complainant. He referred to that in the context of the order in which moneys ought to be applied when a payment is made by a defendant. For those who are interested, when a person pays a fine to the State there are a number of areas in which it is applied. First, there is the criminal injuries compensation levy, and I am pleased to hear the Attorney-General say that that will be retained and will have the highest priority. That is reflected in the legislation. The second priority is the payment to the complainant. I am sure that the Hon. Mr Gilfillan understands this, but I will explain it for the benefit of those who do not: where there is property damage, for argument's sake, the court has a residual power to make an order for compensation.

It is not used in the courts as widely as it should be, usually because victims or complainants do not get their act into gear and provide to the court sufficient information to enable the court to make an order for compensation. It is left to other means, whether it be through the criminal injuries compensation system or through the civil enforcement system, to claim that money. I am pleased to see that the Attorney has placed victims at a high level and that moneys will be applied for in relation to compensation at a high level

and that this will be given high priority. Finally, of course, money goes into general revenue.

The Hon. Ian Gilfillan also raised the important issue (and I will be interested to hear the Attorney's response to this) whether this legislation may have the tendency of confusing the sentencer with the people seeking to enforce a fine. It is easy to suggest that, if you give any discretion to those who are charged with the responsibility of enforcing and collection of fines, that discretion may in some cases cut across the original intention of the sentencing magistrate or judge. I await with more than a little interest the Attorney's response in relation to that issue. However, I am strongly of the view that sentencing must remain the principle that remains within the province of the courts. However, there are examples where Executive Government does, through its actions or decisions, have an impact in the long-term on a sentence that has been imposed by a court.

One specific issue causes me some concern and, again, I will be interested to hear the Attorney's response to this matter, that is, the effect of clause 61, which effectively provides that a person who is convicted and has a monetary penalty imposed on them has a period of 28 days within which to pay that penalty. There does not seem to be any provision within the legislation to vary that 28 day period. I am not an expert in terms of my own personal experience within the legal system, but by and large I have been fortunate enough to act for people who, when they have had a fine imposed, have genuinely sought to repay that fine within the terms provided by the court.

What concerns me is whether the courts should have some residual discretion to extend that 28 day period, perhaps even to a period as long as 60 or 90 days, and the circumstances upon which, if the Attorney does agree to allow some residual discretion, that discretion might be exercised. There are many occasions where one is acting for a student or a pensioner who is essentially law abiding, who has an appropriate fine imposed but who simply cannot come up with the money within that 28 day period. In those circumstances, rather than engage the considerable efforts and resources of the Penalty Management Unit, even with some revisiting after a period of assessment, perhaps a magistrate ought to be given a discretion to extend that 28 day period in cases where he or she is confident that the person before them does not have the wherewithal, the money or the resources to pay within 28 days but does have the capacity genuinely to pay a fine within 60 or 90 days. The danger of allowing the provision to stand as currently drafted is that considerable unnecessary costs will be incurred by bringing in the Penalty Management Unit when it is not warranted.

I recently came across a report from the Victorian Public Accounts and Estimates Committee delivered in September 1997 relating to outstanding fines and unexecuted warrants. When one compares what the Attorney-General has proposed to this Parliament with what the Victorian Public Accounts and Estimates Committee delivered, the Attorney has adopted a far more innovative and enlightened approach in securing the payment of fines. For the benefit of members, I ought to canvass a few of the 44 recommendations made by that committee.

The first of the recommendations is that there be a new Act to operate the infringement notice system and that that Act should deal with the type of offences, the legal effect of expiation, the limits upon sanctions, the appearance of infringement notices, the content of infringement notices, fees for the use of VicRoads data base—and I will come to that in more detail in a minute—the range of measures available to enforce infringement penalties, the agency which will manage the enforcement process, the procedures for formulation and dissemination of guidelines, and the powers of the Sheriff in relation to the enforcement of unpaid infringement penalties.

It is interesting to note that the recommendations of this Victorian committee dealt principally with the enforcement of fines arising from infringement notices, whereas in this legislation the Attorney has taken a far greater overview, and is dealing not only with fines in relation to expiation or infringement notices but also with fines generally imposed by the courts.

[Sitting suspended from 6.3 to 7.45 p.m.]

The Hon. A.J. REDFORD: In looking at these recommendations by the Victorian Public Accounts and Estimates Committee, the fourth recommendation states that infringement notices and reminder notices should contain a statement that, if medical or other significant extenuating circumstances exist which would justify the penalty not being enforced, the offender should write to a contact officer at the issuing agency indicating those reasons and forward copy of any supporting material which might justify the infringement penalty being waived. I must say that that is an interesting concept and not one that I understand is contained within this Bill. I do think, though, that it may well be relevant in giving early advice to the Penalty Management Unit in dealing with people who are having difficulty in paying their fines.

The tenth recommendation states that all agencies issuing infringement notices—and I might add that quite a large number of agencies now have the power to issue infringement notices—should be prepared to allow payment of infringement penalties by instalments in deserving circumstances. The legislation before us reflects that particular recommendation. There is also a series of recommendations in this report that deals with the role of VicRoads, which is the Victorian equivalent to our Department of Transport and the Registrar of Motor Vehicles, and I would urge the Minister for Transport to look at those recommendations, under some of which VicRoads regularly and vigorously prosecutes people who fail to complete and forward transfer forms promptly to VicRoads; and, further, VicRoads should as a standard procedure supply agencies with a full history of all ownership and address changes since the date of offence and the date on which these changes were input by VicRoads. I think that those recommendations may well—

Members interjecting:

The PRESIDENT: Order! It is a little difficult for the honourable member speaking.

The Hon. A.J. REDFORD: It may well attract some level of controversy in the sense that the Registrar of Motor Vehicles in South Australia has substantial amounts of information which are of use not only to Government agencies but also to what I would call *quasi* Government agencies and, indeed, the private sector. I well recall a prosecution of a number of police officers and officers within that department who engaged in the business of selling information about ordinary citizens in South Australia that was kept by the Registrar of Motor Vehicles. It is an interesting pair of recommendations and I would suggest that perhaps our community in South Australia needs to consider it and engage in some public debate as to whether or not we ought to adopt it. Certainly, from an administrative point of

view it would assist, but questions of privacy need to be considered carefully.

Recommendation 18 states that people who have lost or not received their registration renewal notices be required to produce two recent items verifying their identity and current address before a new registration label is produced. I understand that is designed to circumvent certain frauds which have taken place in relation to false registration labels being put on different vehicles and thereby avoiding revenue. I do not know whether that is a problem here, but, again, I draw the Minister's attention to it.

The interesting recommendation in this report relates to councils. We all know that councils impose fines, whether for breaches of by-laws or for parking infringements. From time to time we have had drawn to our attention the activities of some council officers who, it is alleged, have enforced the law in a rather zealous manner. I recall in the last Parliament issues were raised concerning a particular parking inspector at West Torrens. I think members here would be well familiar with the notoriety of that inspector.

Recommendation 22 states that councils have on-line access to VicRoads database provided safeguards are put in place to verify who has access records, and spot checks and regular audits are conducted to verify that access was made in the legitimate course of fine enforcement. This points to how this legislation is different from that considered by that committee. The Attorney-General, in ensuring that all enforcement is conducted within the confines of the Courts Administration Authority, has taken that function away from councils. It seems to me that, if you take it away from councils and confine it within the Courts Administration Authority, there is something to be said for giving the Department of Transport or the Registrar of Motor Vehicles a right to provide information to the Courts Administration Authority and, in particular, the proposed Penalty Management Unit. I think it would be useful and that it would provide the checks and balances that might be necessary before private information of that nature is given. Just to show that I am not an idealogue, it recommends that private sector companies should not be used to trace fine defaulters nor should they be involved in the collection of unpaid fines. I wholeheartedly agree with that recommendation.

The report goes on to make recommendations about the garnisheeing of wages and the attachment of fines to the renewal of a driver's licence and the renewal of vehicle registration, and it recommends that there be no change to the legislation in that regard. It also recommends that the legislation be amended so that a summary of outstanding fines can be posted to the owner of a vehicle at the time when the vehicle registration label and renewal notice is issued. The relevant notice should call for payment of the outstanding fines and contain prominent words to the effect: 'Warning: do not ignore this advice. If you ignore this notice your driver's licence may be suspended, your vehicle or other property may be seized, or you may be arrested and imprisoned.' It is pleasing to see that the recommendation in that part of the parliamentary report is consistent with the Attorney's intent in bringing this legislation before the Parliament.

The report goes on to make recommendations concerning the suspension of a driver's licence. Indeed, it recommends that those suspensions be continued on a greater scale. In respect of the removal of imprisonment as a penalty, in reality, with the greater use of the disqualification of licences for failure to pay fines, we will on occasions see some form of imprisonment for non-payment of fines, because one would suspect that there will be an increasing number of people driving while their licence is disqualified. Anyone who has any understanding of the penalties that are normally imposed for driving whilst disqualified will understand that, almost inevitably, a period of imprisonment follows. So, to some extent there will be some period of imprisonment at the end of the chain if one persists in not paying a fine. Obviously, if you do not have a driver's licence and do not drive, that sanction may never come into effect.

The report refers to an advertising campaign. I would be most interested to know of the Attorney-General's plans in relation to advertising the use of the suspension of a driver's licence in the collection of monetary penalties following the passage of this legislation. The report also refers to defaults on real property. I draw the Leader of the Opposition's attention to that part of the recommendation. Recommendations 41 and 42 refer to the procedures in relation to imprisoning people to pay fines. In this legislation, the Attorney has not taken the same line as recommended by the committee, and I think that, on balance, that is appropriate.

The other issue on which the committee has made recommendations relates to writing off fines. Recommendation 43 states:

(a) the Department of Justice continue to have guidelines on writing off fines, but that these not be made public;

(b) to ensure adequate public accountability, the guidelines should be made available to the Public Accounts and Estimates Committee; and

(c) the guidelines should provide that fines which are clearly 'stale' and unrecoverable be written off.

I am most interested in the Attorney-General's comments about the committee's recommendation 43. He may not have the opportunity to consider it before his second reading reply, and it will not unduly concern me if he does not comment on it at that stage. I would be most interested to know the current position in relation to writing off fines that have been outstanding for many years, whether they do hang around forever, what is the process and what the guidelines might be in determining whether or not a fine is or should be written off. This is an important piece of legislation. It brings to our attention some important issues and I must say I look forward to the debate in Committee. I commend the Bill.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

ELECTORAL (ABOLITION OF COMPULSORY VOTING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 August. Page 1179.)

The Hon. T. CROTHERS: I rise to make a mercifully brief contribution to the Bill with respect to the voting patterns of this State. When I see this Bill appear again and again on the Notice Paper—and I congratulate the Attorney, a favourite of mine, on his intestinal fortitude in presenting this time after time—I wonder whether next time it is presented the Minister for Primary Industries could handle it. It seems to me that it is a hardy annual to the extent that it is almost a horticultural item in this place. I have spoken at great length on many occasions with respect to this Bill, and I want to make one point. I think we are very lucky in this State and nation to have compulsory voting and that citizens do discharge the greatest responsibility they have in our type

of democracy. I recognise that it was introduced by a Liberal Party in times gone by; I pay tribute to the foresight of those men and women in so doing.

Being a student of history I notice that, when the Greek, Persian and Roman empires fell, they did so simply because the citizens of those empires, particularly Greece and Rome, were not playing the full part that they had initially played at the time of the foundation of the great city state empires of Greece and Rome. It was when the citizens of those empires fell away from participation that those empires also fell away. I think that, while it is true that the abolition of voluntary voting may well favour the right of centre Parties in a system of voluntary voting, on this occasion, given the emergence of a plethora of other Parties and given the whacking and the lesson that was handed out to us all in Queensland—my own Party somewhat less than other Parties involved—there is much to be said for continuing with compulsory voting.

It is my view that people with a chip on their shoulder and with something on their mind, or the better educated people who would support the right of centre Parties, always cast their vote. In my view, bearing in mind the present electoral situation in South Australia and Australia, it would be tragic if on this occasion this revolution succeeded, given the emergence of the One Nation Party, the Australia First Party and other Parties. It is said by Dean Jaensch and others that the emergence of these Parties is a phenomenon of the past 20 years. That simply is not true. At the time of the Depression in the 1930s, many Independent Parties emerged. Governments, of both major Parties, changed from time to time because of the way in which people viewed with suspicion the idea that the then major political Party of the day was the cause and effect of the Great Depression of the 1930s.

That simply was not true, as we know, and I will not go into the details of that; people of economic letters are better able to argue that than I. But it seems to me that in a time of change people have said 'Enough,' and if you go to voluntary voting you may well get the position that exists in America, where a President such as Clinton got half the total votes cast in the last US presidential elections. Either 50 per cent, or even fewer than that, of all people entitled to vote did so.

The Hon. T.G. Roberts: It was 52 per cent, I think.

The Hon. T. CROTHERS: It was 52 per cent, and he got about half of that, did he not? So, there is a man with absolute, untrammelled power sitting at the head of the most powerful nation on this earth, elected with 25 per cent of the vote of the people of that nation.

The Hon. L.H. Davis: And we have a mandate for this.

The Hon. T. CROTHERS: I don't know; I take it that you will be supporting voluntary voting, and I am afraid I have to say to you, Mr Davis, that your concept and mine of what constitutes a democratic mandate are horses with two different heads.

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: Please call me 'Primus'—we have 'TC Secundus' in this Chamber as well; otherwise I shall be forced to ignore your interjections, young Redford! I admire the fortitude of the Minister of Justice. However, next time round dare I suggest that, because of the horticultural nature of this hardy annual, he refer it to his colleague the Minister for Primary Industry, who may well be able to dress it up a bit more and present it as something other than what it is, that is, a tactical strike aimed at maximising the electoral potential—

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: When we talk about voting, I am reminded of when the Government members in this Upper House were precluded from voting in their own Party room, and that is not that long ago. How can we trust people like that?

The Hon. Diana Laidlaw interjecting:

The Hon. T. CROTHERS: Pardon?

The Hon. Diana Laidlaw: I said you are meant to be a House of Review, not to play politics as you are.

The Hon. T. CROTHERS: I am reviewing this matter, believe me, most—

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: Yes, I think they have all had dinner tonight, by the sound of it. They have all eaten and supped well tonight—some of them.

The Hon. L.H. Davis: It has come out of the barrier and is going the wrong way.

The Hon. T. CROTHERS: Don't you get caught in the stalls! Anyhow, I conclude on that note and recognise this proposition for what it is: not a strike for democracy, as it has been dressed up to be, but a strike against the very portals of democracy itself by allowing people not to exercise that which is one of the few rights left to them, that is, to determine who will govern them when next we go to the electoral fiesta, be it at State or Federal level.

In conclusion, I notice that the Hon. Ms Gallus from another Parliament is on record as saying that she opposes anything other than compulsory voting in respect of the algebraic determination that we utilise. I urge all democratic members of this place and elsewhere to oppose the proposition and to inflict on it the defeat that it deserves.

The Hon. L.H. DAVIS secured the adjournment of the debate.

STATUTES AMENDMENT (MOTOR ACCIDENTS) BILL

Adjourned debate on second reading.

(Continued from 6 August. Page 1235.)

The Hon. CARMEL ZOLLO: Like all my colleagues in the Opposition, I have received correspondence and representations expressing concerns over the changes that the Bill will bring. South Australian motorists will have the annual duty of third party insurance increased by 8 per cent. This is part of a raft of other increases making owning and running a car a costly luxury, with the Government indicating that, should the measures in the Bill be rejected, class 1 premiums will be raised by a vast 12.9 per cent.

Whilst we have a dramatic increase in the duty for compulsory third party premiums, we have this mean-spirited Bill which will deny a just recompense for injured motorists and passengers. This Government sees motorists as a tax target. Nevertheless, the compulsory third party scheme reflects community expectations of a fair and equitable insurance scheme for injured people. The Government has identified that a reason for increased premiums is the undercapitalisation of the CTP fund. However, these disproportionate changes will again hurt those in the community who have the least protection and ability to deal with such savage cuts to benefits.

The State Council of the ALP recently passed a motion bringing to the attention of the parliamentary wing the six

month threshold and other inequities in the Bill. The Labor Caucus equally shares the concerns of the Council.

I now refer to the elderly, the unemployed, pension recipients and the rural community.

The Hon. A.J. Redford: Who spoke on the motion?

The Hon. CARMEL ZOLLO: I do not think I remember at this time. In examples provided by the Law Society, cases clearly illustrate the unnecessary hardship that will be imposed on the community. One such example—and we have all received these examples—is of a Mrs Black (case A2). Despite extreme pain and suffering, she falls under the unfair six month threshold imposed through this proposed legislation. Mrs Black is a 70 year old grandmother residing in the country. In May she was a passenger in a motor vehicle that was involved in a collision. She was wearing a seat belt at the time, and liability for the accident is not an issue. Mrs Black sustained a fracture to her left tibia and left fibula (the left leg), a fracture to her sternum and a minor fracture to her sacrum. She suffered extensive bruising to the lower abdominal area and interior chest wall. She was transferred from the country hospital to the Royal Adelaide Hospital.

At the Royal Adelaide Hospital she was treated by an orthopaedic surgeon. She was immobilised in plaster from May until August. She was then placed on a tendon bearing cast, which was removed in October. In February 1997 the fracture was united, is non-tender, and she has a good range of movement in her leg and an excellent walking gait. During the period of convalescence her daughter drove her to Adelaide on at least two occasions. Mrs Black has no claim for economic loss. If the amendments are passed, Mrs Black will have no claim at all for damages, save medical expenses and perhaps a small contribution for family assistance, even though she was significantly immobilised for a period of five months. This is just one of many such examples.

This Bill will also affect the rural community, because large numbers of accidents do occur in the country. This will be in addition to having a reduced capacity to access services and will further disadvantage country South Australia. All this at a time when, according to the Plaintiff Lawyers Association, in 1996-97 the average cost per claim was the lowest since 1986. The threshold requirements are to be changed significantly for eligibility of non-economic loss damages. The example that I have just given of Mrs Black clearly illustrates the injustice of the proposed threshold. The Bill increases the threshold so that a person's ability to lead a normal life must be seriously or significantly impaired by an injury for a period of at least six months; that is, loss for pain and suffering and a variety of other non-financial principles of damage will not be issued until these thresholds have been reached. Many examples can be given where significant impairment can occur within that time, albeit with medical expenses and some other commitments paid.

The other means by which this Bill proposes that one claims for non-economic loss is by incurring $1 400 of medical expenses until 1 January 1999 and, thereafter, $2 500 of medical expenses. These changes will exclude over 80 per cent of present accident victims. Not only will injured people be made victims by the accidents where they sustained injury but they will again be made victims through the changes proposed by the Bill. I believe, as do many other members, including the Hon. Angus Redford on the Government side, that both these threshold requirements will encourage a certain number of people to find inventive ways to maximise their claims, thereby costing the taxpayers of South Australia even more money in increased premiums in the long run.

The Government has again threatened the South Australian motorist with hefty price hikes in compulsory third party premiums far in excess of CPI. In the *Advertiser* of 9 July 1998 Mr Geoff Vogt, CEO of the Motor Accident Commission, predicted that compulsory third party premiums were set to rise sharply each year. He said:

> If you look at five years time, you're looking at an increase of around 50 per cent.

This coincides with the Government's claims that, if costs of claims are not curtailed further, compulsory third party premium increases will be required. Again, this is held up by the Government as justification for the proposed changes. How can these assertions be genuine at a time when as I have previously mentioned the average cost per claim is at a record low? The planned changes will also directly affect claim for nervous shock, a known and widely recognised medical condition, in a manner that many have described as mean spirited. Coupled with other changes, such as a reduction to the award for loss of consortium, this Bill adds to the suffering of injured motorists.

The changes will also incorporate a method of prescribed medical fees. This move is opposed strongly by the Australian Physiotherapists Association and may lead to medical practitioners being required to pay back payments made to them which may be above a prescribed limit. I hope to deal with this issue further at the appropriate time during the Committee stage. I believe that this Bill will serve only to disadvantage injured persons at a time when often they are going through a most traumatic and stressful period in their lives.

The Hon. M.J. ELLIOTT: I must say that I have something of a sense of *deja vu* in handling this legislation, and I certainly see some parallels with the way the Government initially set about handling workers compensation. We begin with a claim that costs are getting out of control and then, without debating too much the substance of that to start off with, the next assumption is, 'Well, we have to straight away reduce benefits.' I really think that that is an incredibly simplistic approach to take. It does not beg the question as to whether or not levels of compensation are reasonable: it just simply says, 'Well, it's getting a bit expensive; we'll have to reduce it.' It appears to me that there should first be argument about the levels of compensation and, if that compensation is at reasonable levels, it could then be the case that, in fact, levies might have to be raised. As with workers compensation, the situation is far more complex than that.

I note, for instance, that there seems to be little evidence that the Motor Accident Commission is involved in issues such as accident analysis, and that seems to be happening quite separately of the MAC; yet it should have a lively interest in those sorts of issues. Just as with workers compensation, our first goal should be reduction of accidents and reduction of the severity of accidents. Indeed, that is the approach we should be taking, even with something like this. I can find no evidence that the MAC has any interest in those sorts of matters.

I understand that 10 per cent of all road deaths in South Australia are directly attributable to not wearing seat belts. Whilst the legislation seeks to reduce the compensation to people who fail to wear seat belts, where is the vigorous campaign to ensure—

Members interjecting:

The PRESIDENT: Order! There is too much conversation on my right.

The Hon. M.J. ELLIOTT: Where is the campaign to ensure that compliance with wearing seat belts improves? We have to tackle this problem from all directions. It is also worth noting that, under workers compensation, the WorkCover Corporation itself has quite detailed analysis of treatments and those sorts of issues. SGIC, which acts on behalf of the MAC, carries out none of the detailed analysis that is conducted under WorkCover. I will return to those themes later.

I have spoken with a number of people about the actuarial considerations, people who are in a position to know and to understand, and it is fair to say that the actuaries have been highly conservative, noting that some actuaries have been increasingly liable to action in the courts, so that might be understandable. My advice is that, in almost every regard, they have been highly conservative and it is most likely that the position of the MAC is nowhere near as bad as is being presented to Parliament at this time. I am not suggesting for a moment that there are no problems, but I am saying that it is overstated at this time.

Many stakeholders have expressed concern at the total absence of any consultation with interest groups about the proposals for change now before us. I raised this with representatives of the MAC, and their response was, 'Well, we consulted after it was brought into Parliament. We put it there so people could consult on it.' My view is that, with something as important as this, with as many contentious issues and, I would argue, with more than one solution available, at the very least a draft Bill should be consulted on outside Parliament before legislation is brought in. That simply has not happened and I believe it is a touch of gross arrogance.

There is concern that the Motor Accident Commission and SGIC do not seem to have undertaken the sort of analysis and evaluation of service provision that is done by WorkCover to make sensible decisions on their operations. The Australian Physiotherapists Association (APA) considers that the proposed changes are a knee-jerk reaction from a monopoly that has not reviewed its own administrative systems or adequately consulted with service providers to effect any perceived required changes or savings. The APA has been advised by SGIC that it has never sent any material about the scheme or the expectation of SGIC and the MAC to physiotherapy service providers.

It is intriguing that the MAC has had legislation introduced with draconian clauses in relation to service fees, yet until this point there has been no communication between SGIC on behalf of the MAC with physiotherapists of the type that has been going on in more recent times between WorkCover and practitioners.

It is worth noting that WorkCover was pretty awful until probably the past two years or so, when it realised that it is much better to work in cooperation with groups than to attack them head-on. One must bear in mind that it is the service providers and not the Motor Accident Commission administration which assists motor accident victims to get back on their feet. I would encourage the Motor Accident Commission to undertake measures similar to those employed by WorkCover to educate providers about how to provide better service to their clients and to the system. I am not suggesting that WorkCover has got it all right, but at least it is starting to move in the right direction in this area.

The Law Society, the Plaintiff Lawyers Association and others have said, and I agree, that the Bill will impact in a serious way on motorists of the State, and they describe it as 'mean spirited'. Over the past two months the Law Society, the Plaintiff Lawyers Association and groups such as the AMA have met with many members of Parliament to alert them to the strength of concern and the very serious implications of this Bill. Their major concern is that this Bill threatens to deny over 80 per cent of those injured in motor vehicle accidents any entitlement to compensation for pain and suffering for which compulsory third party insurance was designed.

Those groups say that it will particularly hurt the less fortunate in this community: the aged, the unemployed, the infirm, children, pensioners and superannuants. In a submission on this Bill, the Law Society says that the Bill will impact adversely on rural residents injured in motor vehicle accidents as a high proportion of motor vehicle accidents occur in rural areas and involve rural residents. These communities do not have easy access to appropriate services.

The Law Society argues that the community has a right to expect that a fair and equitable compulsory third party bodily insurance scheme should provide to injured persons (a) an amount for economic loss, for example, loss of wages or salary; (b) an amount for pain and suffering and loss of amenity, that is, recognising non-economic loss; (c) an amount recognising the cost of medical and like expenses, including ongoing treatment incurred by the injured person; (d) an amount recognising that others, such as spouses or other family members, may be directly or indirectly affected as a result of the injuries suffered by the injured person; and (e) access to a fair, open and unbiased system to determine appropriate amounts of compensation.

The Law Society believes that this Bill threatens seriously to diminish or abolish many of those expectations or rights. The Law Society has no quarrel with some aspects of the Bill, such as the proposal to cap economic loss at $2 million, or to impose penalties on entitlements for failure to wear seat belts or helmets, or in cases involving alcohol. However, it says that no sound case has been made for the abolition of the current entitlements for non-economic loss, which are currently capped at $91 200. It is worth noting that that amount is significantly less than in a number of other States. I believe that Western Australia has a limit of $209 000; New South Wales, $247 000; Victoria, $330 000; and Queensland, Tasmania and the ACT have unlimited entitlements.

The Law Society says that the amendments will result in a loss of benefits for matters such as nervous shock and loss of consortium which, it says, shows a callous and economic rationalist approach to situations where compassion and understanding are required. It also states that the claim that the fund's solvency is under threat is not soundly based and cannot be used to rationalise the severity of this legislation. I certainly agree with that contention. It may be that the fund's financial investment performance can be improved, but that question of fund management can be addressed without implementation of this draconian legislation.

The Law Society supplied several illustrations detailing examples of how people's benefits would be limited or non-existent under those changes. The Hon. Carmel Zollo read into the record a couple of those examples. In fact, some 10 examples were provided to me and, if members are interested in more, I would certainly make them available rather than reading them into *Hansard* now.

The Brain Injury Network of South Australia has also raised concerns with me about this Bill. That community-based organisation provides information, informal support and advocacy for people with disability as a result of brain injury, their relatives and associates. The network is concerned about the reduced or removed entitlement for claims by parents, children or spouse due to the proposed changes to the Wrongs Act. It states that allowing the courts to be involved in deciding the amount of reduction to damages caused by a failure to wear seat belts, helmets and the like has the potential for increased litigation and associated legal costs.

Concerns have also been raised by the group about the six month threshold required for serious impairment to be entitled to pain and suffering. It states that the Government's changes will cause increased stress due to increased litigation costs and time to settle claims. It also states that there is no statistical evidence to reliably estimate the impact of the proposed changes, which will reduce claims at a time when compulsory third party premiums are being increased.

The Brain Injury Network believes that the proposed changes are likely to mean that some claimants with severe disability and long-term high support needs will have insufficient funds for their long-term care and that families and/or the community disability service sector will be expected to pick up the tab or provide the care. The result is a cost shift to families and/or the disability sector. The network supports a flat 25 per cent reduction in claims (non-accumulative) and the removal of the 'or as determined by a court' provision, thus reducing the potential for lengthy, stressful and costly litigation. Concern has also been raised about the introduction of measures to turn a no fault-based scheme (namely, WorkCover) into a fault-based scheme, which the Motor Accident Commission is.

The Australian Physiotherapy Association believes it is extraordinary that the Motor Accident Commission is equating a motor accident victim with a workers' compensation victim, when the nature of the injury and the parties involved are completely different. The element of liability of the injured party is not a consideration under the workers' compensation scheme. It states that the introduction of the proposed changes will severely impact on the motor accident scheme. Service providers already treat motor accident victims at financial risk, as the treatment often occurs prior to the establishment of a claim with SGIC. The APA states that service providers may be deterred from treating motor accident victims if there is no clarity as to whether their fees will be paid or if there is the spectre of being challenged at a later date.

I now wish to refer to specific concerns in relation to the Bill. In relation to clause 9, an amendment to section 124AC of the Act, the Government seeks to amend this clause to enable the Motor Accident Commission to deduct from a person's entitlement to damages any debt due to the Motor Accident Commission arising out of another accident. There is concern that this could also be used to reduce, and even extinguish, the right of a motorist who has infringed policy conditions (including a motorist who has overlooked renewing their driver's licence) to recover damages for injuries by off-setting against such damages amounts payable to others in the same accident. My amendment seeks to address this by adding the words 'in relation to another accident'.

Clause 11, page 5, after line 13 is an amendment to ensure a new subclause to allow any problems arising out of service charges which are deemed excessive to be solved through consultation if possible. We should try to ensure that problems are solved through negotiation, not litigation, so that the cost and time of court action can be avoided. In relation to clause 11, page 5, after line 18, I will be moving an amendment to introduce a sunset clause in relation to the whole of this clause.

It seems to me that some of the problems that arise out of clause 11 are very difficult to fix through legislation. There is clearly a great need for a lot more consultation between the MAC and the representatives of the various health providers, and we need to put systems in place that work effectively. I had many proposals put before me for amendments, some of which I picked up but some of which I do not really believe that legislation *per se* will fix. My amendment inserts a sunset clause into the whole of this clause, and the sunset will be 1 October next year.

The message that I hope to give to the MAC is to fix up the problems here, to negotiate with the AMA, the APA and the chiropractors, etc., and implement systems that work. If we have systems that work I will have no problem whatsoever, in a little over a year, in allowing the clause to continue. However, if the systems cannot be fixed up, all bets are off. It seems to me that this might focus the MAC's mind more than it has been so far and challenge what I see as the very arrogant attitude which led to a Bill coming into Parliament prior to any of the representatives of affected groups knowing that it was coming or indeed knowing of its contents.

As to clause 12, page 5, lines 25 to 27, an amendment to the Wrongs Act to limit the availability of this section, the Plaintiff Lawyers are strenuously opposed to the Government's amendment. They say that the Motor Accident Commission itself acknowledges that 83 per cent of claimants will not receive a non-economic loss component of their claims for pain and suffering as a result of this amendment. They are concerned that even claimants with major injuries could suffer a reduction in damages and only those who sustain catastrophic injuries would not have their entitlement to pain and suffering reduced.

The Society of Labor Lawyers has also raised concerns about this measure, saying that the current entitlements are already pathetic by interstate comparison, as I have already noted. The society is also concerned that the proposed changes will have the unintended result of an increase in litigation due to the exclusion of non-economic loss provisions. The society says that more people would then be likely to claim on an economic loss basis for disruption to family life and the like and that this would give rise to costly and unnecessary litigation. With a tightening of journey claims provisions in the Workers Rehabilitation and Compensation Act the society states:

> These latest proposals simply further erode the legal rights of South Australians.

The six months time frame was also raised as a matter of concern. The Australian Physiotherapists Association suggested that this extended period of time may delay rehabilitation of some injured people and raised concerns about over servicing. The RAA also expressed concern about this measure, and I quote from its correspondence, as follows:

> Under proposed changes the person's ability to lead a normal life must now be seriously and significantly impaired for at least six months. The medical expense minimum has been increased $2 500 and is to be indexed after 1999. While the RAA accepts that there is a need to review the current parameters for non-economic loss and that some change leading to a more stringent threshold for claims of

this nature is justified, it is our view that the proposed amendments could in some circumstances be too restrictive. We are particularly concerned for the effect the proposed changes would have on those who sustain injuries of a permanent nature. Whilst the new parameters may be accepted where a person recovers fully and suffers no lasting injury, instances may arise where there is some permanent disability, yet it is held that the ability to lead a normal life is not seriously and significantly impaired. By way of example, should a person lose a finger, this would presumably not qualify as eligible under new legislation. The ability to lead a normal life may not be seen to be seriously and significantly impaired, yet this person has suffered a permanent disability caused by another's negligence. It seems unfair that a permanent disability towards the lower end of the severity scale should not attract a payment for non-economic loss.

My amendment is in line with the Plaintiff Lawyers recommendation that an injured person's ability to lead a normal life was significantly impaired by the injury for a period of at least 21 days. The RAA supports this measure. I understand that was the original recommendation of SGIC, so how the MAC then fixed upon six months I do not know, unless it is just one giant ambit claim.

As to clause 12, page 5, lines 28 to 35, there is a great deal of concern about this element of the Bill, which limits a claim for nervous shock to a person who is a parent, child or spouse who is either at the scene of the accident or who arrives at the scene of the accident shortly after it occurred. It wipes out the entitlement of a parent, child or spouse who suffers nervous shock as a result of seeing a grievously injured motor vehicle accident victim other than at the accident scene.

There is concern that, if this law is passed, a mother who is called to hospital to assist a grievously injured child and who suffers a nervous breakdown from what she sees will not be entitled to claim for damages. She would succeed in a damages claim only if she was either at the scene of the accident or arrived at the accident scene soon after it occurred. My amendment deletes the Government provision in paragraph (B).

I now refer to clause 12, page 6, lines 1 to 5. This proposal is seen as unworkable by practitioners in the field. They say it creates a standard of proof that does not exist in the common law. There is a strong belief that it will engender unnecessary litigation and cause unnecessary stress to motor vehicle accident victims. By way of example, they raise the case of a 45 year old woman who is forced to give up work to look after her sick husband. If she is injured, she would be forced to argue that there is at least a 25 per cent likelihood that her husband will die, and she will be forced back on to the open labour market. My amendment leaves out paragraph (c).

As to clause 12, page 6, lines 10 and 11, I understand that the Treasurer has stated that this clause will correct an anomaly in relation to a spouse receiving an award of damages for loss of consortium in excess of the injured person's entitlement to non-economic loss. There is concern that the Government's attempts to rectify this anomaly is draconian, and the plaintiff lawyers have suggested overcoming the problem by tying the spouse's entitlement to consortium to the same scale on which the victim's own entitlement to pain and suffering is based. My amendment makes the assessment of damages awarded for loss of consortium to occur in the same way as damages for non-economic loss are assessed.

I now refer to clause 12, pages 6 and 7. These amendments to section 35A(1)(j)(ja) and (jc) of the Wrongs Act follow concern that allowing the court to increase the amount deducted from the damages to be awarded would cause unnecessary litigation and legal costs. The Australian Plaintiff Lawyers Association says it does not oppose the suggested increase in apportionment against motor vehicle accident victims for alcohol or being under the influence of alcohol and the non-wearing of seat belts and helmets, but it does oppose the retention of the argument that the circumstances of the accident and the injury should cause a court to increase such apportionment. My amendment will remove the words 'or such greater percentage as the court thinks are just and reasonable, having regard to the extent to which the accident was attributable to the person's negligence'.

As to clause 12, page 8, line 29, it appears that this was a simple error. This amendment seeks to clarify an internal inconsistency by removing the reference to paragraph (jb) which, if left in, would contradict that paragraph. I have one further amendment in relation to section 127A(2), which I missed previously. It would have the effect of ensuring that the Minister would consult prior to excluding specific services. My amendment will require that the exclusion of specific services would have to happen by way of regulation. Again, I am tackling that issue of having due consultation before changes are made, and clearly the MAC needs to be pushed in that direction.

I note in the contribution of the Hon. Angus Redford that the Treasurer was asked various questions and several other concerns were raised. These included issues such as expected savings to the Motor Accident Commission from the introduction of any of these tougher measurers and the average cost per claim per year being the lowest on record diminished every year and he was asked why there was pressure from the Motor Accident Commission for these changes. I also will be waiting for the Treasurer's response on those issues.

The Society of Labor Lawyers has suggested that the Parliament also consider increasing the fixed amounts of solatium prescribed by sections 23A and 23B of the Wrongs Act. In 1974, the entitlements for solatium were fixed at $4 200 for a deceased spouse and $3 000 for a deceased child. These amounts have not been increased for 24 years, and the society believes they deserve amendment. I invite the Treasurer, in closing the second reading debate, to address this issue. At this stage, I do not have an amendment drafted, and whether I do will depend on the Treasurer's response. With a great deal of qualification, I support the second reading of the Bill.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

POLICE (COMPLAINTS AND DISCIPLINARY PROCEEDINGS) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 August. Page 1259.)

The Hon. A.J. REDFORD: I rise in support of this Bill. The position in relation to complaints and disciplinary proceedings concerning police officers has been a very difficult and vexed issue that has been brought before this Parliament on many occasions over the past 15 years since this Act first came into existence. Indeed, it has always been a difficult and vexed issue and one which exercises the minds of the media, the legal profession, the general public and, not least of all, police officers.

This Bill seeks to achieve three things: first, that in dealing with a disciplinary matter, an officer can be dealt with in relation to conduct that was 'otherwise in all the circumstances wrong'. The provision inserted in the Act recently has now been deleted, and I must say that when it was brought in I did express my concern about what on earth was meant in the context of a disciplinary proceeding by the term 'wrong'. It is subjective and open to interpretation. In my view, it opens police to unfair and possibly unfounded consequences in relation to conduct which may well be lawful and in compliance with general standards but which for some subjective reason might well be found to be wrong.

I wholeheartedly endorse the removal of this clause. I have been involved in cases where people have been prosecuted for acting improperly as a company director, and they are subjected to gaol terms. It often exercised my mind as to what is meant by the term 'improper'. Indeed, it has exercised the mind of our Supreme Court on a number of occasions, and on many of those occasions the matter has gone off to the High Court. It has exercised the mind of the High Court on a number of occasions and we have a series of inconsistent decisions about what on earth the word 'improper' means. The concept of 'wrong' in disciplinary proceedings is just as difficult.

The second matter relates to the change of the standard of proof in dealing with police officers in this sort of matter from the criminal standard, that is, proving a fact 'beyond a reasonable doubt', to proving a fact 'on the balance of probabilities'. In that regard, the Attorney referred to the *Briginshaw* case, which essentially means that, in applying the standard of proof of the balance of probabilities, the trier of fact must take into account the seriousness of the allegations. As I understand it, the theory of the *Briginshaw* case is that, if you make a really serious allegation, it is a bit harder to prove than if you make a relatively minor allegation. I have to say from a personal and practical point of view that I have never really been able to explain it other than in those terms to ordinary people, and I know that some of my legal colleagues have indicated that what it really means is 'whatever you think is fair'. Perhaps that might be just a little cynical application of what is meant by the *Briginshaw* principle.

The third issue relates to the secrecy of information, and in that regard the Attorney has indicated that the provision of information in the interests of justice under the current legislation has been proven to be disruptive to the Police Complaints Authority and to courts and has been used as fishing expeditions. The Attorney did not outline any specific examples, and I would be most grateful if he could outline specific examples of how the use of this clause in relation to the provision of information has been applied against what was originally intended by Parliament with the legislation as it stands. For members who have not read the legislation, the difference between the existing legislation is that information can be provided only in the interests of justice. The new provision says there have to be special reasons. I am not sure what is the difference between providing something in the interests of justice and providing something for which there is a special need. I would have thought that the interests of justice would be paramount in all circumstances, but that is again another conundrum with which legislators, lawyers and judges have to deal from time to time.

As I said, in relation to the first part of the amendments, I agree with the change. In relation to the second part, I agree, but I do have some qualification and I will explore that in some detail. In relation to the provision of information, I have some concerns, and it is my view that this ought to be monitored. I would hate to see people wrongfully convicted of offences when information that was available to the Police Complaints Authority, if it had been disclosed, showed that they had been wrongfully convicted or indeed that their conviction was unsafe. I think we need to be cautious in that regard.

In dealing with the ALP contribution, I have to say that the Hon. Paul Holloway's contribution was a marked improvement on that which he made in relation to the Police Act. It was a considered contribution and I think the honourable member raised important issues, although I have to say that I disagree with what he said. I confess that, having regard to the pretty poor performance from the member for Elder in relation to his contribution on the Police Act, I have not bothered to read what he said in the other place. Once it comes to my attention that he is applying some diligence to his shadow portfolio, I will take some trouble to read his contribution.

The Hon. T.G. Roberts: How will you find out if you don't read it?

The Hon. A.J. REDFORD: I am sure the honourable member will come to me one day and say, 'You know the rubbish that the shadow Minister for Police put up on the Police Act—well, he's learnt the error of his ways and he's now doing his homework and applying what clearly is an intelligent and fine mind to the task at hand, and you'll get a reasonable contribution.' I have no doubt that the minute that happens the honourable member will be speeding his way to my office to say, 'Paddy has improved.' I trust the honourable member to do that on my behalf. In any event, the Hon. Paul Holloway dealt with only one of the issues, that being in relation to the issue of the burden of proof. In his contribution the honourable member said that the standard of proof should be beyond a reasonable doubt for four principal reasons. First, the police are in a unique position and they are often subjected to trivial complaints and indeed complaints that are made by obsessive people—and I take no issue with that factual observation.

The second issue is that, in relation to a finding against a police officer, the potential consequences are very severe. Again, I take no issue, in some cases, with that observation. The third reason he advances is the importance of complaints against police and the importance of the police themselves. I am not sure how that is relevant by itself to his argument. Finally, he says that police are the subject of lots of complaints. Again, I am not sure exactly how that is relevant unless one does a qualitative examination as to why police are subject to a lot of complaints.

In relation to dealing with people who make trivial or excessive complaints, I am not sure that the standard of proof is all that relevant. Again, I am not sure that the consequences argument is all that important in the sense that, if there is a minor complaint, the consequences in my view are generally minor. If there is a serious complaint, the consequences visited are serious. I am not sure how the standard of proof is relevant. Indeed, it seems to me that if every other occupation is subjected to a standard of proof of 'on the balance of probabilities' then I see no reason why the police should have additional protection, which is what the Opposition is arguing, over and above that which might apply.

Indeed, when the former Commissioner says that there are a number of officers about whom he has serious concerns in respect of their fitness, and when he says it is his view that

if the standard had been dropped to 'on the balance of probabilities' he would be able to deal with it and provide greater assurances to the South Australian public about the integrity of the police force then it is my view that we should listen—and listen very carefully. I know the Police Association has complaints about this point, but I will deal with that in some detail later in this contribution.

The Australian Democrats and the Hon. Ian Gilfillan also have provided a contribution, and I must say that I was impressed by the contribution of the Hon. Ian Gilfillan. As per usual, in my short experience in dealing with him, he has provided a fairly considered response—

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: The Hon. Michael Elliott says that I used to be nice to him once and I must say that, with the increase in work, his performance deteriorated markedly and he lurched markedly to the left. I have dealt with each of his contributions on their merits: it is just that I have not found any merit in any contribution recently. The Hon. Mr Gilfillan indicated in his second reading speech that he proposes to require the Commissioner in a complaint before the Police Complaints Authority to indicate the penalty that the Commissioner will be seeking. I think that does warrant some serious consideration. I would be most surprised if, in fact, those people who are responsible for the pursuit of complaints do not have discussions with those who are acting on behalf of police officers who are the subject of disciplinary proceedings to get that indication.

I have often been concerned that a lot of plea bargaining which occurs in criminal courts and in fora such as these is usually done behind closed doors. If one is looking for transparency I think there is some merit in what the Hon. Ian Gilfillan is suggesting, and in that regard I will be most interested in hearing the Attorney-General's response. Regarding the issue of the standard of proof, over a considerable period I have had discussions with many police officers. Indeed, I have been fortunate to discuss this matter—

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: You're getting very defamatory—with the President of the Police Association. Peter Alexander is of the view that the standard of proof ought to be kept at beyond a reasonable doubt. When I took him through the issues, on every occasion he outlined to me examples of where the investigative process against a police officer has been unfair. I support him in that regard, but I do not think that a higher standard of proof is the answer to his complaints. I think that the complaints he makes have nothing to do with the standard of proof but with the way in which police officers are dealt with when the subject of a police complaint.

This afternoon the Attorney tabled the review of operations under the Police Complaints and Disciplinary Proceedings Act 1985 report prepared by Mrs Iris Stevens, a former judge of the District Court. The report (dated 9 July) comprises 91 pages and covers a number of legal issues. It confines itself to the terms of review that were outlined by the Attorney-General on 26 February 1998. I say with the great advantage of hindsight: it would have been of some assistance to me if Mrs Stevens had made some comment about the overall fairness of the police complaints procedure in relation to dealing with police officers.

Notwithstanding that, in my view, the report expresses a number of serious concerns in relation to the way in which the police are dealt with. The summary of the findings which the Hon. Trevor Griffin listed today in his ministerial statement understates the concerns expressed by Mrs Stevens in the body of the report. The issues in the summary on page 91 of this report are as follows:

1. whether the authority, the Commissioner and the IIB should re-examine their procedures in light of the decision in *Casino's* case to achieve strict compliance with the provisions of the Act by ensuring that no procedural steps required by the Act have been omitted and that no procedural steps not sanctioned by the Act have been introduced;
2. whether the ambiguities of the Act, for example, in relation to the function of making findings of conduct and in relation to assessments require statutory clarification;
3. whether the inequities in the Act in relation to the supply to police officers of particulars of the investigation and the opportunity to make submissions ought to be remedied by statutory amendment;
4. whether the issues relating to the confidentiality of the contents of reports of the results of investigations ought to be clarified by statutory amendment; and
5. whether it would be appropriate to transfer complaints concerning management issues to the Commissioner for managerial action.

That summary does not indicate to someone who has not read the report fully some of the serious concerns that Mrs Stevens has raised. At page 19 of the report, Mrs Stevens outlines in some detail the procedure that the investigator dealing with a complaint adopts in so far as the police officer who is under investigation is concerned. The passage on page 19 states:

> The investigator interviews the complainant initially. He does not take written statements but tapes all interviews. He decides what other persons should be interviewed and considers what other evidence is available. He interviews those persons who have been nominated by the complainant as witnesses. He is conscious of the requirement for the investigation to be confidential, and it is his practice to warn verbally all persons he interviews not to divulge any information concerning the investigation.

Later it goes on to state:

> The investigator advises the police officer in his own words of the general nature of the complaint. He tells the police officer that he or she can have a union representative, friend or support person present at the interview and that he or she can bring a tape recorder if he or she wishes. The investigator virtually cannot recall an occasion when the police officer concerned has not agreed to be interviewed. At the start of the interview he gives a general outline of the complaint. The investigator then gives a caution or direction to the police officer pursuant to section 28(11)(b) requiring the police officer to answer questions.

The caution is an interesting document, and it is not one with which I have come in contact before today. The caution proceeds in a general sense. The first question relates to the disclosure of the authorisation, and the investigating officer then states the general nature of the complaint. So, at that stage the police officer knows only the general nature of the complaint. It then goes on and states:

> Pursuant to the Act, the police officer is required to furnish information, produce documents or other records or answer a question that is relevant to the investigation. He then says, 'You may refuse to comply with such a direction if it might tend to incriminate you or a close relative.'

He continues:

> If any information is false then you might be dealt with as a result as a breach of discipline.

Then the final exchange takes place, as follows:

> I am now directing you to truthfully answer all questions I put to you.

So, in the context of an investigation, what we have as disclosed by Mrs Iris Stevens is in my view a requirement that a police officer must answer questions, with some grave risks of sanctions. What concerns me is that at this stage police officers have no idea what those allegations or

complaints against them might be. At page 19 the report goes on to state:

> During the course of the interrogation he ensures that every aspect of the allegations of conduct under investigation is put to the police officer concerned. He does not advise the police officer of the details of the complaint until he has questioned him or her about those details. At the end of the questioning he asks the police officer if there is anything further he or she wishes to add. Having interrogated the police officer concerned, he then interviews any other police officers involved in the matter whose identity the interrogation has brought to light. This may also lead to the discovery that there are other relevant witnesses.

I would have to say that my experiences in dealing with criminal or civil matters are that, before a person is required to answer an allegation, all the allegations in some detail and with some degree of particularity are given to the person who is the subject of investigation. I would have to say that, in the context of that explanation, I well understand the complaints that are generally being made to me by police officers, the information that I generally read in the Police Association magazine, the *Police Journal*, and the complaints that have been made to me by Peter Alexander. In relation to the investigation, the report continues:

> At times the investigator includes in his reports the results of the investigation remarks that are critical of persons including police officers. It does not afford such persons specific or separate opportunities or opportunity to appear before the authority to make submissions either orally or in writing in relation to the matter under investigation. The investigator considers that it is sufficient compliance with section 28(5) if he asks a person at the end of an interview or interrogation whether there is anything further he or she wishes to say. If subsequently the investigator uncovers additional material that may form the basis of an opinion critical of a person, it is not his practice to re-interview the person.

That causes me grave concern, because in my view the investigator should give some detail of the complaints that he or she has in relation to the conduct of that officer before that officer should be required to answer the questions. It is standard procedure throughout police management in the English speaking world that they are required as part of their occupational duty to answer questions. However, whilst that very important right that is given to the general community is taken away from police because of the position they hold, I see no justification at all for their not being provided with detailed particulars of any complaint that has been made against them.

It is also of some concern to me that the investigator can make critical statements without necessarily being required to seek comment from the person who has been criticised before that document becomes the final document. If that occurred in other areas of administration, the courts would seek to intervene and apply the rules of natural justice which, at the end of the day, are two very simple rules of fairness that I will deal with shortly, and injunctions would be issued as a matter of course.

On page 21 Mrs Stevens refers to the sufficiency of the opportunity of persons to make submissions and, secondly, the provision of particulars, and makes certain recommendations in the body of her report about the improvement in that process. At the end of the day, she was not required to look at the issue of fairness but, if one reads the report closely, one will see that the current process has been subjected to some pretty severe criticisms in relation to the way in which police officers are dealt with in the context of fairness.

I draw members' attention to page 23 of the report, where there occurs a mixing of investigation of a police officer for what I would call general misconduct or general failure appropriately to carry out their duties and allegations of criminal conduct. It is very interesting to see what occurs in relation to that position. The report outlines the situation where, if we get to the point where there is criminal conduct or the suggestion thereof, they are advised that they are not required to answer questions.

Police officers have a choice at that time. If officers choose not to answer questions, they are advised that under their general orders they are required to answer questions but that in relation to the disclosure of any criminal conduct those answers will not be used against them in any criminal prosecution. Again, I express my concern about that process, because on any issue of natural justice and fairness a police officer who is the subject of an investigation ought to have all the information made available to him before there is any legal requirement to answer questions. I have seen many occasions where people are required to answer questions without knowing full details of the charges against them and at the end of the day quite serious consequences have been visited upon them which have been subsequently overturned by either additional evidence or a court saying that that process was unfair. The passage that I wish to quote from Mrs Stevens' report is at page 24, where she indicates:

> The willing cooperative officer who attends before the authority for questioning, thus forgoing the right to written particulars, may unwittingly place himself or herself at a disadvantage. It would simplify the situation if there were one requirement as to the particulars to be supplied, namely, the police officer who is to be questioned under direction by an investigator be supplied in writing with particulars of the conduct the subject of the complaint or the conduct of the police officer raised by the authority before being directed to answer questions.

I add one point, namely, that I have had a number of complaints from police officers who have been the subject of this unfair process, if I can call it that, that complaints made against them are generally anonymous. I would have thought that most people who are accused of serious or criminal conduct as a rule should know who their accusers are.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: Yes. There is an example I can give that was explained to me only a few days ago where a complaint was made against a police officer for misconduct that occurred three years prior to the actual complaint being made. The information was well known to a superior officer. The police officer who had the complaint made against him did not think that it was a very serious or important matter, but when he made a complaint about his superior officer in relation to a particular matter someone anonymously made a complaint about the earlier conduct to the Police Complaints Authority. If you want to talk about corruption, there is a recipe for corruption.

Say I were a superior police officer and found someone doing the wrong thing and kept it in my back pocket; I explain to the officer that I want him to behave in a certain fashion and, unless he behaves in that fashion, I will pull that complaint out of my back pocket: if ever there was a recipe for corruption or even, at the worst, for oppression of a junior officer, you have it there. It is my view that in relation to non-criminal conduct there ought to be a time limit within which the Police Complaints Authority can deal with it, and there ought to be a duty that if something comes to the attention of the superior police officer he either brings it to the attention of the authorities forthwith or that officer himself is the subject of disciplinary proceedings. The very fact that we have anonymity and we allow it to occur enables that sort of

(if I can use the word in the broader sense) corruption to occur.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: It does, because if you have to disclose that you are the complainant the first question I will ask you as the complainant is, 'Why have you sat on this for three years?' That is the issue. It causes me some concern that you can get victimisation of police officers by other officers in that context.

The next issue I want to raise is in the context of the timeliness question. At page 44 Mrs Stevens deals with that, albeit briefly, as follows:

> Undoubtedly, there can be delays in investigations. Some of the criticisms of delay are misdirected in that the main causes of delay in the complaints procedure are due to circumstances other than the investigation, such as court hearings which delay a complaint being brought to finality. On occasions, there are requests by IIB investigators for extensions of time to complete investigations. This is often attributed to a lack of resources. The IIB performs other investigative duties than under the Act. However, there are a number of circumstances which can delay an investigation and which are outside the control of the investigator. The IIB investigators attempt to meet the time limits imposed by the authority. However, in particular instances that may not be possible.

The most substantial complaint I receive from police officers in relation to this concerns the lengthy delays attached to dealing with complaints. The delays in themselves create enormous injustice and problems for the individual police officer subject to investigation. I can imagine the enormous stress attached to a police officer, those in his family or those close to him. Indeed, the sorts of examples outlined in the *Police Journal* have on every occasion concerned me in terms of the time taken from the incident to when the police officer was dealt with. On every occasion reported in the *Police Journal*, there were complaints in that regard.

I also commend to members page 42 of the report which deals with the criminal investigation and the requirement to answer questions, notwithstanding sufficiency of information. I could talk for some considerable time about this issue, but I will leave it to a more closely confined examination when the inevitable amendments to this legislation come from the Attorney-General as a consequence of this report. However, it is interesting that there is a chapter on the rules of natural justice. The rules of natural justice are simply stated but in some cases are very complex in their application. The first principle is that the decision maker must give a person whose interest may be affected by a decision an opportunity to present his or her case; and the second is that the decision maker must not be interested in the matter to be decided, otherwise known as the 'bias rule'. The first covers issues such as right to legal representation, the right to the particulars, the right to know information, the right to make submissions, the right—

The Hon. R.D. Lawson: Surely it precludes anonymous complaints.

The Hon. A.J. REDFORD: I am not sure what you mean by that interjection.

The Hon. R.D. Lawson: You were saying that the Police Complaints Authority allows anonymous complaints.

The Hon. A.J. REDFORD: Yes, it does. Three police officers have spoken to me about anonymous complaints. They assumed that those complaints came from other police officers, but they did not know that. Again, it is not a good situation in any working environment, although in my four or so years of politics it is a daily event in this game, but that is another issue altogether. At page 71 Mrs Stevens deals extensively with the right to know and the right to be heard and, indeed, sets out in an understated manner, but quite forcefully, that the police officer has a right to know. It is clear from reading this report that that is not happening.

At page 81 of the report, mention is made of the duty to give reasons and for those reasons to be provided to the police officer concerned. I am surprised that there are occasions when that does not happen. I do not think that is fair and I would be most surprised if any justification for that practice could be found to my satisfaction. If a police officer is to be dealt with by way of discipline, he has every right to know why that has occurred. At page 84—

The Hon. T.G. Roberts: Are there any penalties for vexatious complaints?

The Hon. A.J. REDFORD: About 90 per cent of the time that the honourable member asks me a question, I have a ready answer, but on this occasion he has me stumped. I do not know.

The Hon. Diana Laidlaw interjecting:

The Hon. A.J. REDFORD: I would assume that, if there was a vexatious complaint by a police officer, there would be a sanction if you could catch them but, as the Minister interjects, how would you know if it is anonymous?

The Hon. T.G. Roberts: The investigating officer would know. Somebody would have to make a report to somebody, either in writing or—

The Hon. A.J. REDFORD: Not if it is a piece of paper left on a desk. I am not sure what the *modus operandi* of these anonymous complaints are, neither do the people who have made complaints about them to me know the *modus operandi* because they do not know who, what or how. A lot of the officers who get called in do not know that they are the subject of complaint. Someone comes to see them from IIB or somewhere else and says, 'We want to have a chat to you.' By the time they know what has gone on, it is a pretty disconcerting experience. I would invite any police officer who reads this contribution to write to all members of Parliament and set out some of the examples that they have been subjected to.

At the end of the day, I know it is very important to have a police force with integrity and to have an honest and efficient police force, but it is also important to have a police force with good morale and to have a police force that understands the rule of law and that the rights and the privileges that we give to ordinary citizens will also be generally afforded to police officers. I understand that sometimes it is necessary to require them to answer questions. What I do not understand is why they do not know what the charges and details are in relation to any complaint made about their conduct. Indeed, at page 84, Mrs Stevens says:

> Whilst neither the common law nor the Act would require the authority to disclose to affected persons details of evidence, such as witness statements, it is arguable that the minimum requirements would be to provide particulars to police officers and to do this in writing and prior to attending before the authority or the IIB for questioning under direction. Adherence to the principles incorporated into section 28(5) would also be a basic requirement for compliance with natural justice whenever critical opinions are to be expressed in reports and/or assessments. The basic consideration is that the police officer concerned be advised of the issues involved in an investigation and be given an opportunity to be heard in answer.

I think that, with the greatest respect, Mrs Stevens understates it. If criminals are entitled to witness statements, then surely police officers are entitled to witness statements. Whilst there might be practical considerations that might make that

difficult, in my view let us have a serious look and explore this in some detail.

I note that in his ministerial statement today the Attorney-General commented that Mrs Stevens did not find major problems. Perhaps the Attorney-General looks at this matter slightly differently than I do. I believe that that indicates a major problem, particularly if you happen to be a police officer who has been subjected to this process. However, I note that the Attorney-General said this:

> Although I have sought preliminary comments on the report from the Commissioner of Police and the Police Complaints Authority, wider consultation must take place and further consideration will need to be given to the issues before the Government determines its position. There is nothing in the report to delay consideration of the two Bills presently in Parliament. I am able to indicate that there will be a process of consultation with the Commissioner of Police, the Police Complaints Authority, the Police Association and other interested parties with a view to considering the main issues arising from the report and determining what action should be taken on the report and the issues it raises.

I urge the Attorney to deal with this matter. It needs to be dealt with expeditiously because we are dealing with important rights of very important people in our society. I seek advice from the Attorney in his closing argument as to whether it is likely that legislation will arise from this report. If that is the case, I take no issue with his saying, 'Let's get this Bill through the system and we will get some legislation up arising from this report.' However, if there is no likelihood of that happening, perhaps we might want to consider the speed with which we deal with this legislation.

I would strongly urge any person in this Parliament who is in any way interested in how our police are dealt with under a complaints procedure to read very carefully not just the recommendations in this 80 page report but the whole of the report. I await with some interest the response from the Police Association and other stakeholders to the recommendations of Mrs Stevens. In any event, I commend the Bill.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

EMERGENCY SERVICES FUNDING BILL

Adjourned debate on second reading.

(Continued from 23 July. Page 1129.)

The Hon. CAROLINE SCHAEFER: I congratulate the Minister on this Bill. In my view it is a fair Bill and somewhat overdue. It provides equity to insurers and users of CFS services, many of whom are not just from country areas but also from urban fringe areas. Following the Ash Wednesday bushfires in 1983 it was revealed that there was a serious need to upgrade services, and $15 million was borrowed by the CFS between 1986 and 1993. That lending can be broken up roughly as follows: approximately $10 million was allocated to appliances; approximately $4 million on improvements to communications; and approximately $1 million on buildings.

The Country Fire Service has been struggling ever since to pay approximately $500 000 annually. Quite rightly, the Government, in my view, has taken the decision to clear this debt prior to the inception of the new levy charges in June 1999. This will mean a contribution of approximately $6.5 million from the Government and $6.5 million from the insurance companies. There has been some misunderstanding, I believe, by a number of insurance policyholders who believe that they are being unfairly levied and that they are suffering unfair increases. However, they will pay a one-off surcharge of $6 per policy for most insurers, and that seems to me to be a very fair method of ridding the CFS and its users of this debt prior to moving into what I believe to be a very fair method of financing emergency services from now on.

The CFS previously has been funded by a number of outlets, but largely by Government, local government and a fire services levy on insurance holders. This has been most unfair, because it is not just those who are insured who are serviced by the volunteers of the CFS. However, if we look at it, we realise that we have had a cheap service from these people over many years. They have, and require, expensive infrastructure, but we must remember that their labour is free to us and voluntary. As an aside, we are served by the CFS out of 430 community organisations.

I recognise that this Bill takes in other emergency services areas, but I felt that I would concentrate on this tonight. After June 1999, CFS and emergency services will be funded by a levy on all property holders, and that includes mobile property holders. There has been some criticism of the fact that cars, trailers, caravans, etc., will pay part of this levy. However, I believe that it needs to be remembered that roughly one third of all call-outs in country areas to the CFS are to motor vehicle accidents, and a high number of those involve caravans, trailers, and so on, which roll over in country areas. So, it seems to me that that section of property ownership should indeed pay its fair share of a levy.

For many years, country people, in particular, have complained that only those who insure are paying for the emergency services to be delivered to everyone. This, as I see it, provides for equity at last. All those who own property and all those who are likely to use these emergency services will pay for them, and it will make for a much cheaper and fairer service all round. I congratulate the Minister on this legislation.

The Hon. J.S.L. DAWKINS: I support this Bill. It sets out major reform for emergency services funding in this State and establishes a framework for levies on fixed and mobile property, a dedicated fund known as the Community Emergency Services Fund and for the collection, management and disbursement of moneys to meet ongoing costs of emergency services.

Over the past two decades, numerous reports have recommended significant changes to the existing arrangements. However, the decision to implement these changes has not come until the introduction of this Bill. The existing method of funding has been described in all these reports as simply not fair. This legislation provides a fairer, less complex system where all the property holders will contribute a comparatively equitable share of the cost of emergency services based around their potential to benefit, as well as the services that are available to them.

Every member of the South Australian community has a right to expect access to those emergency services which respectively specialise in the protection of life, property and the environment. Equally, everyone has a responsibility to contribute fairly towards the provision of those emergency services.

Implementation of the arrangements included in the Bill will enable the current fire service levy contribution, which is included in insurance premiums for homes, businesses and contents, to be removed. The Community Emergency Services Fund will be applied by the Minister to fund the

ongoing cost of services carried out by the CFS, MFS, SES and the volunteer marine rescue organisations, as well as agreed rescue and prevention services provided by Surf Life Saving SA, SAPOL and other community groups which provide emergency services.

Under the current system 70 per cent of the MFS and CFS budgets come from the fire services levy on insurance premiums. The balance of these budgets plus the budget for the State Emergency Service is paid by Commonwealth, State and local governments and, in addition, by local fundraising by volunteer brigade members. It is worth noting that 31 per cent of households and 20 per cent of small businesses are not insured, while 29 per cent of households and 24 per cent of small businesses are under-insured. These householders and business proprietors and those who insure offshore do not make a fair contribution to the cost of protecting their lives, property and the environment. This Bill provides for the assessment of an annual levy on all land in South Australia in two components: one is a fixed charge and an amount in respect of the value of land, and also a levy on registered motor vehicles and registered vessels.

I have noted comments within and outside the Parliament that this Bill introduces a new tax. A levy is already in existence on premiums in relation to household insurance, household contents insurance, business insurance, business contents insurance, vehicle comprehensive insurance and crop insurance. Those levies will be removed and this levy will take their place. It is worth emphasising that the existing charge on insurance premiums will be removed.

I have also heard suggestions that the levy on vehicle insurance should be deleted from the Bill. As a formerly active CFS volunteer and as someone who keeps in regular contact with a range of emergency service workers, I can attest to the significant number of callouts related to car accidents and the obvious cost to the community in attending these accidents.

In summing up, the Bill is designed to resolve situations where insured pensioners are subsidising the emergency services cost of uninsured businesses. Farmers who insure their crops pay a levy which goes to the MFS, and country people are paying a levy on car insurance which also goes to the MFS. This Bill brings more equity to emergency services funding and I support the second reading.

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

ADJOURNMENT

At 9.45 p.m. the Council adjourned until Wednesday 12 August at 2.15 p.m.