LEGISLATIVE COUNCIL

Thursday 18 February 1999

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

WATER OUTSOURCING

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement made by the Hon. Dr Armitage in another place this day on the subject of United Water Technologies.

Leave granted.

PAPER TABLED

The following paper was laid on the table:

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

Juvenile Justice Advisory Committee—Report, 1997-98.

QUESTION TIME

GOODS AND SERVICES TAX

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Treasurer a question about the GST.

Leave granted.

The Hon. CAROLYN PICKLES: The Senate inquiry into the GST has heard evidence from Australian economists both in favour of and against the GST. One of the remarkable outcomes of the evidence given this week has been the debunking of the Howard Government's claims that the possible exemption of food from the GST would diminish the benefits of this new unfair tax. The Government's claim of any economic benefit at all from the tax has been dealt a body blow by one of Australia's leading and economically conservative economists, Professor Peter Dixon.

Both Professor Dixon and Mr Chris Murphy, the latter used by Treasury and the Prime Minister to provide credibility to their claims about the GST, have made admissions to the committee about the benefits of exempting food from the GST, even though Mr Murphy says he still supports the inclusion of food. My questions to the Treasurer are:

1. Does the Treasurer still support the GST being levied on food, given that key economists Mr Murphy and Professor Dixon both agree that taking food out of the GST would actually halve the inflationary impact on the GST with no adverse impact on jobs and growth?

2. How does the Treasurer justify the inclusion of food in the GST in the light of the abundance of evidence that most countries with a GST either exempt food or tax it at a lower rate because a GST on food is a large disadvantage to people on low incomes?

The Hon. R.I. LUCAS: The answer to the first question is, 'Yes, I do.' The answer to the second question is that for every economist or group of economists who look at and try to model the GST, there is another economist or group of economists who will argue the contrary view. The Commonwealth Government's position as I understand it remains unchanged through the statements of the Prime Minister and the Treasurer, and the South Australian Government believes that, if we want to see national tax reform, there is a package there that has to be endorsed.

Certainly, the Premiers at the Premiers' Conference made quite clear that, if there were to be significant changes to the national tax package (and the removal of food would clearly be a significant change), there would have to be a revisiting of the total national tax reform consideration between the Commonwealth Government and the State and Territory Governments.

ELECTRICITY SUPPLY

The Hon. P. HOLLOWAY: My question is directed to the Treasurer as the Minister responsible for South Australia's electricity assets. Given that the national electricity market commenced operations almost two months ago, I ask the Treasurer the following questions:

1. Is he satisfied with the current operations of the national electricity market?

2. Has the Government put any proposals to NEMMCO or other authorities or Governments to change to the NEM's rules of operations?

3. Will he table any correspondence sent to or received from NEMMCO concerning the operation of the NEM since its commencement?

The Hon. R.I. LUCAS: Nothing is ever perfect, but by and large I think the transition to the national electricity market has gone pretty well. A lot of people amongst the Opposition Parties and critics were gleefully predicting that the lights would go out and that there would be a national calamity as we moved to the national electricity market.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Only Government offices? Is that right? I am indebted to the Hon. Mr Crothers for his interjection that it was only for Government offices that they were wishing that might occur. This is a massive change to the operations of the electricity industry in Australia. As I said, whilst nothing is ever perfect—there are always areas where it can be improved—by and large, Australians, and particularly South Australians, can be pleased that it has gone reasonably well in terms of the changes.

With regard to correspondence, a review is about to be conducted which will look at the issues of liability, and members engaged in the debate in the last session will know that we discussed that issue. There is a 12 month sunset clause, or something similar to that, within the legislation. Clearly, that sort of discussion is going on at the moment. At the same time, there is a consideration of the review of some of the rules and guidelines. I am not prepared to indicate at this stage that every bit of correspondence which is being transmitted between NEMMCO, NECCA and various Government departments and agencies will be plonked on the table. I am happy to consider that proposition and see what might, by way of a summary, be made available in a further response to this question.

There have been discussions in relation to the liability issue which, as a result of the debate we had in the last session, we must take up, and obviously propositions and proposals have been put up by various jurisdictions, and we would be no different to that. In relation to the review of some of the guidelines, I understand that discussions have gone on at various officer level meetings, but at this stage I am not really in a position to be able to report publicly on the results of those discussions.

VICTORIA SQUARE

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer, in the absence of the Minister for Transport, representing the Minister for Aboriginal Affairs, a question about Victoria Square.

Leave granted.

The Hon. T.G. ROBERTS: Yesterday in the Matters of Interest debate I spent five minutes speaking about some possible uses that may be made of a negotiated outcome for Victoria Square. It included the suggestion of an active cultural centre for those people in that area, and it was also suggested that other Aboriginal people in the State could use an active training centre that linked Aboriginal arts and culture for a positive use. People are looking for alternatives to the situation that we now have in the square, but no positive positions are being put—not that I have heard, anyway. Certainly, there have been no offers of any substantial buildings or programs that could be offered as alternatives to be used instead of the possibilities that we have now.

The Adelaide City Council has set up a three person committee to look at the matter, and I understand that some of the stakeholders had meetings today and walked away pulling out their hair. I understand that further meetings are continuing as I speak but, unless a combined effort is made by both the State Government, in terms of a commitment to resources in combination with the city council, I suspect that we will not get a position in which everyone can walk away from those negotiations feeling happy.

Therefore, as a matter of urgency will the Minister convene a meeting between the stakeholders to discuss positive alternatives to organise those people who are socially dislocated and who use the square for a positive outcome, with a view to providing support and infrastructure for alternative ideas that are developed between the stakeholders?

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

WAR MEMORIAL

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Administrative Services a question about the State War Memorial on North Terrace.

Leave granted.

The Hon. J.F. STEFANI: I believe that 5DN is alleging that a confidential report on the landmark War Memorial on North Terrace indicates that the structure has been affected by serious water damage. Water damage is sometimes described by experts as a form of concrete cancer which can also cause rusting to the steel support members. Further, 5DN is also alleging that the Government is sitting on a report which indicates that the initial cost for repairs is $60 000, but concerns have been expressed that the bill could run over $100 000. Can the Minister say whether these allegations are correct and what action the Government is taking to solve any problems that may exist at the War Memorial?

The Hon. R.D. LAWSON: I am aware of the radio reports today concerning the condition of the War Memorial on North Terrace.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order!

The Hon. R.D. LAWSON: Before addressing the honourable member's questions, I should perhaps enlighten the Council on some of the background to this matter. In early 1996, before Anzac Day, some work was undertaken on the State War Memorial, which is of course a building of immense significance to the people of this State. That work was superficial work and required the repair of certain vandalised plaques, the painting of the ceiling in the crypt, restoration of the doors and cleaning of the stonework.

In the course of those repairs some spalling (I am told that is the correct term) of concrete and reinforcement corrosion was discovered in the substructure of the memorial. Following that discovery, funds were allocated from the Historic Buildings Conservation Program to commission a conservation plan and a full dilapidation survey. That plan and survey was completed in September last year, and it has revealed that indeed the concrete substructure under the pool, which forms part of the War Memorial, has suffered from some deterioration, and there is some rusting of reinforcement.

Further investigation sampling and laboratory testing will be required to determine the exact extent of the damage and the remedial work required. Because of the nature of the building and because of its significance and sensitivity, appropriate means of undertaking those investigations and also any consequent repair work has to be examined in some detail.

I am pleased to note that my recent inspection of the War Memorial has shown that there is no visible evidence of external deterioration, and the memorial is still open to the public and is being used for its intended purpose. There has been an estimate that $60 000 should be allocated, and that has been allocated from the Government's Historic Buildings Conservation Program. The conservation works will not be initiated until after the Anzac Day ceremonies this year.

I can assure the honourable member, the Council and the community that this War Memorial will be appropriately maintained as a tribute to those who served and fell and that due consultation will take place with the RSL, the city council and Heritage SA.

MARCUS CLARK, Mr T.

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Attorney-General a question about the bankruptcy settlement reached with Tim Marcus Clark.

Leave granted.

The Hon. IAN GILFILLAN: The Attorney-General announced on 4 February that the State Government, as the major creditor in the bankruptcy of Tim Marcus Clark, had agreed to accept a settlement of $1.5 million. The Attorney's statement says that after bankruptcy costs the State Government will recover $1.1 million and that this offer should be accepted because it is a 'realistic commercial proposition'. The statement goes on to point out that any further examination of Mr Clark would be lengthy and costly and that the offer was the best that could be expected.

The Attorney would be aware that there is considerable public discontent or unease about the level of that payment, compared to the burden that has been placed on taxpayers as a result of the losses over which Mr Clark presided. There is also discontent about the extent to which Mr Clark may have divested himself of assets, placing them in the names of his wife and children from 1989. Presumably, Mr Clark and his wife would not have agreed to a $1.5 million settlement unless they feared losing a lot more in further bankruptcy proceedings.

Mr Clark was personally found negligent and in breach of his duties in relation to only a small portion of the State Bank Group's total losses, and the Supreme Court judgment was against him in the sum of $81.2 million. But the settlement figure represents only 1.85 per cent of that judgment sum and, worse, the settlement figure represents a mere .0476 per cent of the total losses over which Mr Clark so demonstrably presided.

I understand that Mr Clark's three year period of bankruptcy is due to end in April and that the Attorney-General has said that the State will not oppose this. I presume that from that time onwards Mr Clark will still be able to afford to live in the affluent Melbourne suburb of Hawthorn in a house valued at around $2 million, while he and his wife continue to drive in luxury cars. I take it that he will not be reduced to catching a bus, moving to a cheaper suburb or riding a bicycle to commute, as most of us would have to do if we were personally held responsible for losing $81 million.

I understand that the Attorney is satisfied that it is better to have $1.5 million in the hand now than the supposedly doubtful prospect of potentially more money later on. However, it may be that not all South Australians would agree with the Attorney on this and that some aggrieved taxpayers may want to contest this arrangement. Therefore, I ask the Attorney:

1. Is it true that after April the State of South Australia will have no claim on any future earnings or assets Mr Clark acquires, even if his wife or adult children decide to transfer assets back to him?

2. Was it a condition of the settlement deal that the State would not oppose the lifting of bankruptcy?

3. Either before or after Mr Clark's bankruptcy is lifted, can any South Australian lodge a protest—formal or otherwise—with the Federal Court?

4. Is it possible, for instance, that an enterprising legal firm in a class action on behalf of a group of taxpayers might attempt to get more from the Clarks?

5. Is there any avenue of appeal open to ordinary South Australians in this matter?

The Hon. K.T. GRIFFIN: I will respond to the last question first. I am not in the business of giving legal advice on Federal bankruptcy legislation. I must confess that I am not certain of the answer, so I will not step into that problem. However, I suggest that the honourable member seek advice from the Official Receiver in Bankruptcy if he wishes to advise constituents about what they may or may not do with the prospective discharge of Mr Clark's bankruptcy. Certainly, creditors have a right to object.

I have indicated that the State will not object. The Government will certainly not consent to that discharge, but it would be inconsistent if, having agreed to a settlement on the one hand, it then proceeded to oppose the application for discharge. In fact, there would not have been a settlement if we had moved to continue our objection to any discharge. In his explanation, the Hon. Mr Gilfillan said that there is considerable public discontent. I am not aware of any public discontent. I think there has been one letter to the editor and that is about it. No-one has expressed—

The Hon. T.G. Cameron: Just walk down King William Street and ask a few people.

The Hon. K.T. GRIFFIN: There is no doubt that there is public discontent about Marcus Clark. There is also public discontent about the way in which the Labor Party participated in the downfall of the State Bank. Just walk down King William Street and test people's recollections of that. They all know that it was the Labor Party and Mr Bannon and that Mr Rann was part of the Bannon Government, and they are angry about what has happened to South Australia.

The Hon. Mr Gilfillan has tried to weave a web of intrigue and to beat this up. I think that is an unfortunate way of dealing with it, but he is entitled to do that. The Labor Party might try to weave some other web which absolves them from responsibility, but no-one will believe it. I do not know why Mr Clark and his family agreed to the settlement—it may well have been because of the impending public examination of Mrs Clark and the children—but the fact of the matter is that all the advice that was available to the Government, including advice from the Official Receiver in Bankruptcy in Melbourne, was that this $1.5 million was a good outcome from the bankruptcy proceedings.

It must be remembered that once the public examination was completed the State would have had to take proceedings in the Federal Court based on an allegation that property had been divested in an attempt to seek to avoid creditors and on a number of other grounds. The advice which we received was that it could take a further 18 months, probably two years or even longer, by the time the matter had been worked through in the Federal Court and gone on appeal, and that the likely cost to the State would certainly have been at least $500 000—and there were always risks involved with the litigation.

Whilst we were pursuing the matter in the Federal Court, the legal costs of Mr Clark would have consumed whatever funds we might have been able to get at in that action. So, at the end of the day if the State's costs were $500 000 and the Clark family's costs were $500 000, we would already have been $1 million behind the eight ball. We took a practical commercial decision based on advice from the Official Receiver and others and made our own judgment that we had no sensible alternative than to accept the offer, which was an increase on earlier offers that had been made.

You can like it or leave it; you can criticise it or not, as the case may be, but those are the facts. I am not afraid to take responsibility for the decision. It was my recommendation to the Government that it be accepted. The Government agreed with that. In this life when you have to make decisions, some of them are difficult. Whilst I would have liked to get a lot more out of this for the State, one must be sensible and realistic and weigh up whether it would cost taxpayers more with the risk of losing more than getting the money that was on offer.

We must always remember that through other litigation we managed to settle the claim against the other directors in respect of their insurance for, I think, about $2.5 million, and we left open the litigation against Mr Clark which resulted in a very large judgment being made against him. No-one in their right mind would ever believe that we had any prospect of getting that amount of money out of Mr Clark or his family. We would have liked to get more. Everyone can stand up and say, 'We want more,' but it is a question of whether you will get it. In the end, you must make a judgment. The Government made a judgment and accepted the offer.

When the bankruptcy is discharged, it is my understanding that the State will not have any further right to claim against the bankrupted estate or Mr Clark. That is really the way in which bankruptcy operates. Once you are a discharged bankrupt, apart from any commitments that might have been entered into to settle outstanding liabilities or any other outstanding matters in relation to fraud, there is no way that you can pursue a discharged bankrupt in that respect. The

State has no intention of pursuing Mr Clark further in the light of the settlement unless something goes wrong with the settlement. A deposit has been paid, and the due date for payment is, I think, about 23 April.

The Hon. T.G. CAMERON: Will the Attorney advise the Council, first, whether Mr Marcus Clark is seeking to discharge his bankruptcy or whether he is seeking to have it annulled; and, secondly, in reaching a settlement with Mr Marcus Clark, did the State Government waive its rights to appear at his bankruptcy hearing when he seeks either discharge or annulment?

The Hon. K.T. GRIFFIN: It is my understanding that there will not be any attempt to annul the bankruptcy. In fact, I do not think that is legally possible.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: Not to annul the bankruptcy. However, under Federal bankruptcy law, it is my understanding that if the bankruptcy has occurred through someone else's fraudulent behaviour it may be possible to annul, but I do not think anyone would suggest that that is relevant in this case. My understanding of Federal bankruptcy law is that after three years there is virtually an automatic discharge. There can be opposition to that. The period of bankruptcy can be extended, but basically it is almost automatic. I do not believe there has been any formal waiver of the State's rights, but I have indicated that the State will not object to the discharge. It is as simple as that. We will certainly not be opposing it, and we will not be supporting it. In light of the settlement that has occurred, we will take no part in the discharge proceedings.

SERVICE STATIONS, WORKER SAFETY

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about the safety of console workers in service stations.

Leave granted.

The Hon. R.R. ROBERTS: Members would have seen the numerous reports on service station hold-ups, and we would all remember the sad case where one of our promising young cricketers was killed while operating a console one night, as well as the recent case at Mansfield Park. A number of constituents, some who have worked in that area and some by way of general inquiry, have asked me what is being done about the occupational health and safety of these workers.

Since these matters have been raised with me, I have taken a considerable amount of notice at a number of establishments, small and large. As someone who travels fairly regularly, I have noted that there are some fairly spacious premises where only one person is on duty. There are a number of questions that the Attorney may be able to answer and, if not, I am happy to wait for a reply, although I would ask him to explain one particular matter to the Council. My questions are:

1. How many service station hold-ups have occurred in the past 12 months?

2. How many premises have had surveillance cameras installed?

3. How many have had only one employee on duty?

4. How many employees have been hospitalised and how many have died?

5. And the question that I would ask the Attorney to answer in the Chamber today is this: what steps are he (as the chief law enforcement officer of the Crown) and his Government taking to ensure the occupational health and safety of these employees and provide them with a safe workplace in line with his duty of care?

One wonders when this Government is going to put people before profits.

The Hon. K.T. GRIFFIN: The last question is quite ludicrous. When the honourable member talks about duty of care he knows as well as anyone that no Government can, apart from its employees, assume a duty of care and responsibility in that sense.

The Hon. R.R. Roberts: Every employer has a duty of care.

The Hon. K.T. GRIFFIN: The employer owes a duty of care, not the Government. That is the problem with the honourable member and some of his colleagues: he tries to flick pass everything to the Government and say that the Government has to cure the world. Of course, that is the philosophical difference between Labor Party members and Liberal Party members. We believe in the right of the individual: they believe in the right of the collective State. They say: 'Go and tell them what to do. Regulate. Put the burdens on everyone.' That is not the policy or the philosophy of this Government.

Service station hold-ups are a serious issue, and an issue on which the Government has taken some action in conjunction with the industry as well as with the police. To a very large extent, many of the initiatives have come from operators and owners, as well as from oil companies, in relation to providing a better mechanism to limit the opportunity for hold-ups as well as to limit their consequences. The honourable member's first series of questions all relate to statistical data. Some of it will be available and some of it will not. I doubt whether any data is available about the number of people who might have been hospitalised, and I doubt whether there is any data about surveillance cameras. However, I will have those issues followed up.

When this issue arose well over 12 months ago and gained some prominence, I immediately sought to bring together representatives of the industry, the Service Station Proprietors Association, the Motor Trade Association, the police, the Insurance Council and the Institute of Petroleum. As a result of that first meeting, the Service Station Security Committee, which was an industry-police committee that had not met for some years, was revived. Obviously, there was significant benefit in those who have specific responsibilities in this area having a forum at which they could exchange views, make plans and try to deal with what was then a spate of service station hold-ups. The Institute of Petroleum was developing a code of conduct for its own industry members, oil companies in particular, who ran service stations.

The service station industry is one where the oil companies own the service stations but where there are also small and larger independent operators. Some of the difficulty comes from the smaller operator area, where they do not have either the information or the funds necessary to provide for proper security. But the Institute of Petroleum made available to all in the industry its manuals and its advisory material, as well as endeavouring to develop its own code of practice that would govern the way in which its own members provided for security. Everyone in the industry acknowledges that it is a difficult issue but that also it is related specifically to occupational health and safety. If we look at the provisions of the Occupational Health, Safety and Welfare Act, a significant responsibility is placed back on employers and not on Government.

My understanding from the industry is that the Motor Trade Association, the Service Station Proprietors Association and others are all now placing greater emphasis upon the things that can be done with buildings, with protective barriers, with video surveillance, with not keeping cash on the premises or keeping it in a double keyed safe, than they have before.

The only other point I want to make is in relation to surveillance cameras. Some of the information that comes from the police is interesting. Many people just do not maintain their cameras. Even though they might have them running, the quality of the tape is defective or they do not properly service them, and what has to happen—not just in this industry but across the board—is that if people have surveillance cameras they ought to be properly servicing them. It is all very well to have a surveillance camera when someone commits an offence, but it will be a great failing of those people if you cannot have the evidence upon which you can subsequently pursue an offender in court and bring that person to justice.

The Hon. G. WEATHERILL: As a supplementary question, has the Attorney-General looked at what these big companies do in America in reference to service stations, to protect the wellbeing of the worker?

The Hon. K.T. GRIFFIN: I have not, but if the honourable member is inviting me to go to America on a study tour, I would be delighted to take up his offer.

The Hon. T. Crothers: He wants me to go with you, though, to chaperone, I am afraid.

The Hon. K.T. GRIFFIN: Then I am staying home!

Members interjecting:

The Hon. K.T. GRIFFIN: If he carries the baggage, that is fine.

Members interjecting:

The Hon. K.T. GRIFFIN: You will have to travel business class. I have not personally looked at the experience in the United States. I know that industry groups in Australia have developed their own approaches to the better design of premises. Some use pop-up screens, but others say that they are dangerous; some plan so that the console operator is a long way from the entrance door and is not cluttered, so that they can be more easily seen from the road; and, in some instances, we have taxis driving through service stations on a fairly regular basis, either to pick up fares or to park. There is a lot of cooperation in the industry in trying to make the environment safer for those who work in it. One hears stories about service stations that are cluttered, where you cannot see the console operator from the tarmac, where you might find that the shelves are cluttered and block the console operator—

The Hon. G. Weatherill interjecting:

The Hon. K.T. GRIFFIN: In the United States, as I understand it, you cannot buy petrol in some outlets unless you have first purchased a docket, or you use your credit card. Those are the sorts of things that have been discussed but, as a Government, we will not impose them upon the industry. However, from the meetings that I have had with the industry and representatives of service station proprietors, I can tell the honourable member that the industry is well aware of that.

MEMBERS' PHOTOGRAPHS

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking you, Mr President, a question about members' photographs in the visitors' lounge.

An honourable member: We haven't seen yours yet.

The Hon. CARMEL ZOLLO: That might be what the question is about.

Leave granted.

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: Today's *Advertiser* carries a photograph and a story headed 'Parliament Prank "Childish"'. It is certainly publicity that politicians and this place could well do without. I agree with the sentiments expressed in the story, that it is a childish prank. However, I was more concerned about the inaccuracy of the article, which stated:

> . . . this week, someone apparently opposed to Mr Cameron removed his photograph. . .

Since being elected to this place in October 1997, I have never noticed a photograph of Mr Cameron in that slot. I can be fairly certain of this, because whenever I have taken visitors to the lounge—

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: —I have been asked each time why my photograph was not there, despite having submitted one when I was asked to do so. Whenever my attention was drawn to the board, the blank space between the Hon. Sandra Kanck and the Hon. Paul Holloway was pretty obvious. Mr President, can you confirm whether an approved photograph of the Hon. Mr Cameron was ever placed on the board and, even more important from my point of view, when will photographs of members first elected in October 1997 be placed on the board, as I am keen to ensure that, for at least a few years, the photograph will bear some resemblance to what I look like now?

Members interjecting:

The PRESIDENT: Order! I saw the article this morning. On the way to my office I visited the lounge, to find that the graffiti was on the glass—from the photograph it looked as though there was no glass. However, the desecration of the board was to the glass cover, and it had been there since Monday. I took steps to ensure that that graffiti was immediately removed. The sketch, as some members have put it, was on—

Members interjecting:

The PRESIDENT: Order! The honourable member asked a question: I am trying to give an answer. The sketch was on the glass and not on the piece of cardboard behind the glass. So, that has been removed. If anyone sees any desecration of those boards with what we call modern day graffiti, it should be removed immediately. I understand that the Hon. Mr Cameron has been asked to provide a photograph and, at this stage, has not done so. So, there has not been—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! There has not been a photograph in the allotted area, although the name of the member, and others, are underneath the space for the photograph. I am advised that the Hon. Carmel Zollo, the Hon. John Dawkins and the Hon. Nick Xenophon all have been asked to provide photographs. I understand that the Hon. Carmel Zollo has done so, and I believe that the Hon. John Dawkins also has

done so, but it is not to the right template, because it has to fit in, and everyone has been—

Members interjecting:

The PRESIDENT: Order! The new members who have been asked to provide their photograph have been given the size required to fit into the space provided. I suppose the reasonably important point to make is that if one had a look at those—

An honourable member interjecting:

The PRESIDENT: Order! The honourable member has asked a question. If one looks at the boards, one will see that there is a huge logistical exercise in removing the backing, or the glass, and I imagine that, by doing that, you will distort the photographs that are already in there, and it all has to be put back together. I understand that the clerk would like to do it in one go rather than making three or four attempts. We are still waiting on some members to provide photographs. When they are provided—and they should be provided as soon as possible—the board will be brought up to date.

SMALL BUSINESS

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Treasurer, representing the Premier, a question about small business.

Leave granted.

The Hon. G. WEATHERILL: A company named Integrated Silicon Design has reportedly used electronic tagging techniques pioneered in Adelaide to grow as a company by 100 per cent in 1997, with a $1.2 million turnover, and it expects business to double again in 1998-99. This business is proving once again that we in Adelaide have the ideas and the skills to strengthen this State's position in the world's economy—

An honourable member: This hasn't come from Mike Rann's office, has it?

The PRESIDENT: Order!

The Hon. G. WEATHERILL: —and that small operations can show remarkable ingenuity and potential in export growth. Will the Leader of the Government explain this Government's apparent fixation about using public money in ways that benefit multinational companies?

An honourable member: Tell him about Africar.

The Hon. R.I. LUCAS: I won't tell him about Africar. I will take advice on the honourable member's question but, certainly, from the information that I saw at the end of last year, a very significant proportion of the State Government assistance that is provided to business and industry in South Australia is provided, first, to State-based—South Australian based—industry and also to small and middle sized businesses in South Australia. Contrary to, I suppose, popular perception, all the assistance money, or incentive money provided by the Government is not being channelled to large businesses or multinational corporations being attracted to South Australia. I will happily refer the honourable member's questions to the Minister and bring back a reply.

AQUATIC ANIMAL

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 aquatic animal diseases.

Leave granted.

The Hon. M.J. ELLIOTT: Australia's imports of fish and fish products in 1995-96 were valued at $670 million, with exports valued at $1 319 million. The fish and aquaculture industries have an annual value of production of $1 633 million. However, presently there are no national contingency plans for aquatic animal disease incidents, no coordinated surveillance and reporting system for early detection and no diagnostic capability for many serious aquatic diseases. There is growing concern that measures must be put in place to ensure that this industry and the environment are not put at risk from incursions of pests and diseases.

For example, there is the potential for an introduced marine worm, Boccardia knoxi, to be brought into this State from oyster spat imported from Tasmania to stock aquaculture leases. This and other pest species could severely impact on our shell fisheries production. To my knowledge, there is no routine monitoring of oysters for this pest in South Australia. Indeed the Pacific Oyster is an introduced species. In another example, mussels from aquaculture leases on Kangaroo Island are spreading outside of leases, fouling navigation markers, boats and even oyster leases and are growing inside the Pelican Lagoon Aquatic Reserve. These mussels differ greatly in size and aspect to those naturally occurring in these areas.

It is not yet known what impact on the South Australian marine environment introduced Atlantic Salmon may have if they escape from aquaculture ventures in South Australia. There has also been much speculation whether introduced pilchards have been the source of the introduction of disease. My questions to the Minister are:

1. What risk assessment processes are undertaken to ensure that species introduced for aquaculture do not become pest species or that introduced exotic diseases are not introduced into South Australian waters?

2. What improvements to the import risk analysis process for fish and fish products have been undertaken by this Government?

3. Has an effective testing procedure for imported fish products been implemented—in fact, has any testing procedure been implemented—and will the State Government consider the cessation of importing pilchards from overseas?

4. What actions will the State Government undertake to push for national contingency plans for aquatic animal disease incidents and for coordinated surveillance and reporting systems for an early detection and diagnostic capability for aquatic diseases?

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

POLICE CADETS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General questions about police cadet numbers. He may wish to pass this onto the police Minister, but I will leave that up to him.

Leave granted.

The Hon. T.G. CAMERON: Police recruiting has reached a dangerous low in South Australia with only 20 cadets earmarked for training this year. Although between 110 and 120 police officers a year quit the force, only one course of 20 cadets so far has been scheduled for Fort Largs Police Academy in 1999. Last year, two courses of 28 graduated from the training establishment. According to the latest figures, police have a total of 3 630 members in South

Australia compared with 3 608 when the Liberals took office five years ago. The Liberal Party 1993 State election policy speech on page 16 stated:

The Liberal Government will provide an additional 200 police in our first term.

That promise, I might add, was never kept. By 1997, this had been watered down in their policy speech to say:

A Liberal Government will maintain an appropriate number of operational police.

It would appear that now even that promise will not be fulfilled. My questions to the Attorney are:

1. Considering that 120 officers are likely to leave the police force through natural attrition and will be replaced by just 20 cadets this year, what steps is the Minister taking to ensure that overall police numbers do not fall in order to meet that promise?

2. Will the Minister assure the public that safety and operational effectiveness of the police will not be compromised by a shortfall in police numbers?

3. When will the Government fulfil its five year old 1993 election promise to increase police numbers by 200?

The Hon. K.T. GRIFFIN: I will refer the honourable member's questions to my colleague in another place and bring back a reply.

REPUBLIC

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Treasurer, representing the Premier, a question about the republican referendum and the impact on the Government of South Australia.

Leave granted.

The Hon. CARMEL ZOLLO: As we all know, in November this year we will be asked whether we want to see Australia become a republic by the appointment of our own head of State. What exactly we will be asked in that referendum is still a moving a feast, but I trust it will be unambiguous and to the point. I am naturally also pleased to see the Premier's open support for a republic. The South Australian Constitutional Advisory Council, appointed by former Premier Brown, recommended that a State referendum be held prior to any Federal move to decide key issues and that a State Governor should continue to be appointed if and when Australia becomes a republic. I personally see no reason or need to hold a State referendum, given that we will be given the opportunity to make our views known in the Federal referendum. My questions to the Premier are:

1. What consultations are taking place between the Federal and South Australian Governments with regard to both the mechanics and the wording of the referendum?

2. Will the South Australian Government provide support or in any way contribute to either side in respect of the case they put forward?

3. What action, if any, is taking place to implement the recommendations of the South Australian Constitutional Advisory Council (assuming the referendum is carried) to ensure a smooth transition to a republic at a State level and that our interests are protected?

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

POWER INDUSTRY

In reply to **Hon. R.R. ROBERTS** (26 November 1998).

The Hon. R.I. LUCAS: The Premier has provided the following information:

Formal negotiations began with the Electricity Unions' Single Bargaining Unit in April 1998. These negotiations continued through to Friday 4 December, 1998, when, as a result of events in Parliament in the following week, it was agreed by the parties to adjourn any subsequent negotiations, at least for the present. It is worth noting that during that extensive period of negotiations the only indication that there might be industrial action was on or about 24 November, 1998, the date mentioned in the honourable member's explanation to his question.

The negotiations covered a significant and diverse range of employment and superannuation issues. Notwithstanding the comprehensive nature of the issues dealt with, a number of which now have protections embedded in the sale/lease legislation, the negotiating parties only remained substantially apart on two issues of any significance at the time the negotiations were adjourned. The issues in question were:

- the length of time the Government was prepared to unconditionally guarantee a no forced redundancy environment beyond the point of sale/lease; and
- the inclusion of a new provision (which doesn't exist in the current scheme) in the superannuation scheme that would allow employees who would be continuing their employment beyond the point of sale/lease the option of cashing out their superannuation entitlements prior to the point of sale/lease at the retrenchment rate.

You would have to agree that these outstanding matters are complex and potentially extremely costly. For example, based on an actuarial assessment the claim for a superannuation cashing out option would cost up to $88 million, an unjustifiable demand in light of the Government's commitment through the sale/lease legislation to underwrite the unfunded liability existing at the point of sale/lease.

In all the circumstances it was more than open for me to express the view 'that the Government and the unions have come to reasonable and successful conclusions after a reasonable and responsible approach by the Government.'

Finally, I will take this opportunity of clarifying why the generation entities named in the member's explanation made application to the Australian Industrial Relations Commission for assistance. It was not, as the honourable member indicated in his explanation to the question, 'to prohibit the relevant unions from meeting with their members'. Rather the employers did what they did for the purpose of doing all in their power to protect the public against disruption to electricity supply and in response to threats of industrial action made in the media, and elsewhere, by the unions.

GAMBLERS' REHABILITATION FUND

The Hon. NICK XENOPHON: I direct my questions to the Leader of the Government, who, I understand, is representing the Minister for Human Services in the absence of the Minister for Transport. My questions are as follows:

1. How many applications have been made to the Gamblers' Rehabilitation Fund Committee for research into problem gambling since the committee's inception?

2. What has been the outcome of each of the applications?

3. How much money has been allocated to research into problem gambling in this State since the introduction of gaming machines in July 1994?

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

HAMMOND, Dr L.

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement made in another place this day by the Minister for Government Enterprises on the subject of termination payments to the former Chief Executive of the MFP Development Corporation.

Leave granted.

DRILLING PROCEDURES

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Attorney-General, representing

the Minister for Primary Industries, Natural Resources and Regional Development, a question about industry non-compliance with well drilling application procedures.

Leave granted.

The Hon. SANDRA KANCK: The 1997-98 annual report of Primary Industries and Resources SA details a pattern of non-compliance with well drilling application procedures by a single operator. The report states:

> For the first quarter of 1997-98, 43 per cent of wells drilled began drilling prior to obtaining approval. This was regarded as unacceptable, and action was taken with the offending operator.

Apparently, as a result of that action, the level of non-compliance dropped to less than 5 per cent in the subsequent quarters. Yet by the last quarter the rate of non-compliance had risen to 38 per cent. Action is supposedly again being taken.

The report also notes that non-compliance levels for failure to give PIRSA six weeks' notice of drilling averaged an astonishing 94 per cent. Equally amazing is the fact that PIRSA's response to this form of non-compliance is to fast track the application. My questions to the Minister are:

1. What is the name of the offending operator?

2. How many times did the offending operator breach notification requirements?

3. What action was taken against the offending operator for the 43 per cent non-compliance rate?

5. What action has been taken against the operator following the 38 per cent non-compliance rate during the last quarter?

6. Why does PIRSA fast track applications that fail to provide the required six weeks' notice rather than prosecute?

The Hon. K.T. GRIFFIN: I will refer the honourable member's questions to my colleague in another place and bring back a reply.

SOUTH-EAST ECONOMIC DEVELOPMENT BOARD

The Hon. A.J. REDFORD: My question is to the Treasurer, representing the Minister for Industry and Trade. How much money has the South-East Economic Development Board distributed since its inception, including off balance sheet amounts distributed by other bodies—Federal and State—on the nomination of the board? To whom has this money been distributed and for what purpose? What have been the outcomes of the purposes for which the South-East Economic Development Board has distributed money? What are the criteria for appointment to the South-East Economic Development Board?

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

YEAR 2000 COMPLIANCE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Year 2000 Compliance, a question about the year 2000 date problem compliance for central systems.

Leave granted.

The Hon. CARMEL ZOLLO: I was pleased to read, before having the opportunity of asking this question in a different form, that the Government is continuing its work in departments to rectify the year 2000 compliance problem. As predicted by the Auditor-General's Report, I was not surprised to read that the Government has spent $26 million more than was originally planned. Whilst the Government has undertaken some mainly promotional activity to raise community awareness of the year 2000 problem, otherwise known as the millennium bug, surveys such as the one conducted by the Australian Bureau of Statistics indicate that more needs to be done.

In relation to Government departments, the Treasurer, in response to my question of 6 August 1998, indicated that December 1998 was the date by which all software changes to essential systems would be completed. My questions are:

1. Has the Cabinet deadline for changes to all essential software and hardware been met?

2. If not, will the Minister indicate which essential systems have not been repaired and state what action is proposed and what deadline has been set?

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

STATUTES AMENDMENT (MINING ADMINISTRATION) BILL

In Committee.

Clauses 1 to 7 passed.

Clause 8.

The Hon. SANDRA KANCK: I move:

> Page 2, lines 31 to 36, page 3, lines 1 to 20—Leave out subsections (4), (5), (6) and (7).

I indicated in my second reading speech that I would be opposing this part of the new section, and in the Attorney's summing up yesterday he asked whether I would also be opposing clauses 10 and 11, and I nodded to him that that would be the case. I will divide on this amendment because I feel so strongly about it.

I heard what the Attorney-General had to say in relation to this secrecy provision. It may sound okay on the surface but I think that it allows the opportunity for underhand deals to be done. If there is any hint that there will not be openness, that opportunity is there. I indicate that I will divide on this amendment but not on the other two. I will use this amendment as the test case.

The Hon. K.T. GRIFFIN: The Government strenuously opposes the amendment. I have already outlined the reasons for the Government's Opposition, but if I do it again that might help the Committee. The amendment proposed by the Hon. Sandra Kanck will completely remove the confidential provisions that all parties consulted had agreed to. In particular, it should be noted that the Aboriginal Legal Rights Movement had no objections. It recognises that there may be occasions where native title claimants may wish to keep confidential information on Aboriginal sites and heritage issues as well as details of their financial arrangements. These details should not be of concern to third parties on the understanding that they can only be kept confidential in the first place if all parties to the arrangements are in agreement.

In addition, the proposed legislation provides for the Environment, Resources and Development Court to be the umpire and to make determinations where the parties cannot agree. It is worth reminding the Committee that the right to choose that an amendment be kept confidential has nothing whatsoever to do with the Mining Registrar, the department or the Government. The decision of the parties to choose

between open for inspection or confidentiality is entirely theirs and does not impact on the operations of Government or Government funding in any way.

I suppose what the lack of confidentiality in these arrangements could do, however, is work against the development of marginal ore deposits, as I indicated when I responded yesterday and those producing lower price commodities which may well be postponed or abandoned altogether. I suggest that that will be seen by the mining industry as yet another setback to the development of the State's mineral resources for the benefit of the wider community. If the amendment is passed, I suggest that it would be a retrograde step not only for the mining industry in this State but also for the overall development of the State.

Again, I return to the point that whilst the Hon. Sandra Kanck has suggested that there may be some value in having this information available publicly, with respect there is no basis upon which I think we ought to be intervening to seek to have information which would otherwise be confidential and of no real concern to anyone else laid out for all to see. I think we ought to respect the confidentiality arrangements which they make, particularly if they agree to that course of conduct.

The Hon. P. HOLLOWAY: I indicate that the Opposition, as was indicated in the second reading speech, will support the Government on this matter. It has been the subject of some considerable discussion whether or not this particular clause relating to confidentiality should be agreed to. Certainly, the Opposition has been very critical of the use by this Government of confidentiality provisions when it relates to contracts made between the Government and other parties, but it needs to be pointed out in this case that we are not talking about contracts involving public money. These are essentially agreements between non-government parties.

As I understand the legislation, for confidentiality provisions to apply, it must be agreed by all parties that the agreements are to be kept confidential. Also, I understand that some of the basic information in relation to these agreements is made available, anyway, under the register. For those reasons, we do not oppose this clause—

The Hon. K.T. Griffin: But you do oppose the amendment?

The Hon. P. HOLLOWAY: Yes, we will be opposing the amendment.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: It is not so much an amendment. The Hon. Sandra Kanck is opposing this clause with the aim of leaving it out. We support the original provision for the reasons that I have given. The only other point I wish to make is to repeat that the Opposition has received no indication from any of the stakeholders involved that they disagree with these measures.

The Hon. A.J. REDFORD: I wonder whom the Hon. Sandra Kanck has consulted in relation to this amendment and what level of support she has had for this proposal not to enable these agreements to be kept confidential.

The Hon. SANDRA KANCK: I suspect that this is a sort of leading question. Certainly, I recognise what the Hon. Trevor Griffin has said, namely, that the ALRM does not oppose it, but simply because that is so does not mean that there are not Aboriginal groups who oppose it. I did speak with people in the Conservation Council and a representative of one Aboriginal group who was quite scathing of the ALRM's position on this and felt quite let down.

I actually think one needs to see what happens when agreements are made in secret, and what has happened in the last couple of years with the Jabiluka deposit is an indication of that, where things were not open and the Aboriginal people themselves found that one part of their tribal grouping had negotiated with the mining companies. Because it was not an open process, those people did not know what was happening and ultimately were disfranchised. I believe it is really important that this stays as open as it can possibly be.

The Hon. T.G. ROBERTS: I think the honourable member is indicating more a process than a final position. Negotiations, if they are open, can be inclusive, and can allow Aboriginal people to be involved and have an outcome negotiated on their behalf. The legislation actually indicates that the confidentiality clause remains in place in relation to outcomes. I am not sure that the legislation will achieve what it sets out to do. I am not quite sure whether a penalty is included for people who take away and make public the results of the negotiations, but I am sure that those involved in the negotiations who have a vested interest in the outcome will try to make sure—

The Hon. A.J. Redford: There is a penalty: it is a $10 000 fine.

The Hon. T.G. ROBERTS: It is very difficult to track down. How many prosecutions are there for breaches of any confidentiality clause? For instance, there are penalties for Cabinet leaks, and I am saying both sides. It does not matter how secure negotiations are and what legislation is written in relation to the security of information around confidentiality: if there is a reason and purpose for that confidentiality to be broken, and an advancement of an individual's or a group's position can be made by breaching that agreement, the agreement will be breached.

The Hon. A.J. Redford: Such as a medical report in a criminal case.

The Hon. T.G. ROBERTS: It could be anything. The honourable member interjects and puts forward a case with which he is familiar! We are supporting the Government's position on it, but I would note that there will be cases where confidentiality will not be maintained and it will be difficult for the legislation to be policed.

The Hon. NICK XENOPHON: I indicate that I support the Democrats' amendment, albeit with some reservations. It seems to me that I could see greater problems if the register is not open. I am concerned about the penalty provisions and, given the nature of the mining industry and the public interest factors that ought to be considered, I support with some reservations the Democrats' amendments.

The Hon. T.G. CAMERON: I support the amendment moved by the Hon. Sandra Kanck on behalf of the Australian Democrats. I think we need to have openness in relation to matters like this. It is all very well for Governments, whether Labor or Liberal, and companies to argue the often quoted phrase, 'It is commercially confidential' or 'It is a commercially confidential matter that would be detrimental to the organisation/Government, if details of the contract were open.'

I think we had some experience of the secrecy that surrounds contracts between Governments and private companies when we saw the length to which the Government went to ensure that a full copy of the water contract was not made available to members of this Chamber or members of Parliament in particular.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: The Hon. Angus Redford interjects. It did the Government no good to keep the water contract from us because we saw in that situation a copy of the water contract: it was delivered to the Leader of the Labor Party. We had one. I have seen a copy of the water contract, so it just goes to show that, even though you keep things commercially confidential and they are kept under a veil of Government secrecy, the details of these contracts have a mysterious way of finding their way into the hands of the Opposition, no matter who that may be. We are talking here—

The Hon. T. Crothers: Or Independents!

The Hon. T.G. CAMERON: Or Independents, or for that matter parliamentarians who belong to SA First. Thank you for that interjection, Mr Crothers. But seriously, what we are talking about here are valuable assets which are owned by the people of South Australia. We are talking about mineral assets. I suppose we could look at oil and gas as well. Heavens above, I would love to see all the contracts that both Labor and Liberal Governments have entered into with Santos over the last 15 years or so. One could only begin to guess at what kind of advantage Santos has been given.

One can only assume that it got something out of the Government because, if you look at the political donations it makes, over the past few years Santos has not been smiling too favourably on the Labor Party, and the answer for that is obvious—the Labor Party is not in Government. When the Labor Party was in Government, Santos was always around with big donations. It begs the question because, if you are a member of the public, you pick up the newspaper and see Santos donating hundreds of thousands of dollars to political Parties around the country. On the other hand, the agreements and contracts they enter into with governments—

Members interjecting:

The Hon. T.G. CAMERON: Whether they are Liberal or Labor, Governments are involved, and one can ask: what does Santos get for the hundreds of thousands of dollars it donates? I am talking about assets which are owned by the public of South Australia, and yet here we have both the Liberal Government and the Labor Opposition, which expects to be in Government at the next election, protecting their right to secrecy in relation to assets which at times can be worth hundreds of millions of dollars. For example, one has only to look at Roxby Downs and what transpired with that resource, which could be worth $20 billion or $30 billion. It is the largest single piece of mineralised earth that exists in the country.

I can recall when the project was being drilled. I was an industrial advocate for the AWU, and I was up there signing up members. Even today they have not discovered the width, breadth or depth of that deposit. We are talking about assets which are arguably owned by the people and which, under a mining lease, are transferred over to a private company. Why should this information not be made available to the public, who arguably own the asset? Does not the public have an interest in knowing what secret deals are done between governments and mining companies? It is with some disappointment that I note that the Australian Labor Party is not going to support the amendment moved by the Democrats. One can only assume that it is sitting back, taking on board that it will probably be the Government in three years and, heavens above, it too will not want to disclose to the public the confidential details of agreements entered into with mining companies.

It is about time we had a political process which revealed the full details of contracts or agreements entered into between governments and companies. Heavens above, I can recall the Australian Labor Party squealing like stuck pigs when the Government would not release the details of the water contract. Yet again we have another piece of legislation that will go through this Parliament with the support of the Coalition Government, that is, the Liberal Party and the Labor Party.

The Hon. K.T. GRIFFIN: Much legislation goes through with the support of all persons in the Parliament, not just the Liberal Party and the Labor Party. Clearly, 90 per cent of our business is managed effectively, but heaven forbid that we were ever in coalition with the Labor Party as a Government. The philosophical positions that we take in respect of key issues are really at different ends of the spectrum. The Hon. Mr Xenophon, to put it kindly, has misunderstood. I will not say that he has misled anyone, but he has misunderstood. Similarly, the Hon. Mr Cameron has misunderstood what is being proposed in this Bill, particularly the clauses which are proposed to be amended by the Hon. Sandra Kanck. The Government has no interest in these agreements.

Members interjecting:

The Hon. K.T. GRIFFIN: The Government has no interest in these agreements—simple. These agreements are between native title holders or native title claimants in relation to land over which a company presumably seeks to explore and even to mine. So, it is the native title aspect of this which is to be the subject of an agreement. As I said when responding to the Hon. Sandra Kanck, there may be information in the agreement which relates to Aboriginal heritage issues which the parties agree should not be out in the public arena for everyone to see and learn about. Why should not the parties be able to keep that confidential? Under Part 9B of the Mining Act they are entitled to make agreements in relation to exploration and mining, and the Government is not involved in that process in the normal course of things.

Members interjecting:

The Hon. K.T. GRIFFIN: What is the public interest? It is not about the Government granting concessions or rights.

Members interjecting:

The Hon. K.T. GRIFFIN: That is a different issue. The public does not have a right to know because the Government is not involved. You may argue that the public has a right to know where the Government is involved, but the Government is not involved in these agreements. They are about native title and about agreements involving native title holders or claimants in relation to gaining access for the purpose of exercising rights which have already been granted by the Government under a mining tenement. When the tenement is granted there is an entitlement to know what the arrangement is between the Government and the company, but not in relation to the native title negotiations in respect of mining and exploration. I think the Hon. Sandra Kanck knows that this is the case—that the Government is not involved in it. I think she has conceded that, but I submit that the Hon. Mr Xenophon and the Hon. Mr Cameron are on the wrong track.

The Hon. P. HOLLOWAY: I wish to endorse the remarks of the Attorney in relation to this matter. It is quite mischievous to suggest in any way that the Labor Party is conniving in hiding information that should be in the public interest. It is quite clear that these arrangements are in no way

comparable with Government contracts for outsourcing. We are supporting this measure on its merits.

The Committee divided on the amendment:

AYES (5)

Cameron, T. G.	Elliott, M. J.
Gilfillan, I.	Kanck, S. M. (teller)
Xenophon, N.	

NOES (14)

Crothers, T.	Davis, L. H.
Dawkins, J. S. L.	Griffin, K. T. (teller)
Holloway, P.	Lawson, R. D.
Lucas, R. I.	Pickles, C. A.
Redford, A. J.	Roberts, T. G.
Schaefer, C. V.	Stefani, J. F.
Weatherill, G.	Zollo, C.

Majority of 9 for the Noes.

Amendment thus negatived; clause passed.

Remaining clauses (9 to 11) and title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (SENTENCING—MISCELLANEOUS) BILL

Adjourned debate on second reading.

(Continued from 16 February. Page 679.)

The Hon. T.G. CAMERON: This Bill amends the Criminal Law Consolidation Act 1935 and the Criminal Law (Sentencing) Act 1998. As I understand it, there are two amendments to the Criminal Law Consolidation Act 1935: section 348 is amended to put beyond doubt that an appeal lies in relation to an order under section 39 of the Criminal Law (Sentencing) Act 1988; and section 352 is amended to give a right of repeal against the inappropriate use of Griffiths remands. (This occurs where a court, instead of sentencing an offender, releases them on bail and adjourns sentencing to assess the offender's prospects of successful rehabilitation.)

The other amendments in the Bill are to the Criminal Law (Sentencing) Act 1998. Section 18A is amended to allow one global sentence to be imposed on all outstanding complaints against the offender. Section 38 is amended to allow a court to impose a sentence of imprisonment which would be partially suspended upon condition that the defendant enter into a bond to be of good behaviour and comply with any other conditions of the bond. It is also amended to allow a court to make it a condition of the bond for the prisoner to reside in a specified place and remain there for a period of not more than 12 months.

Sections 39 and 42 are amended to eliminate any doubt over conditions of bonds. Section 71 is amended to allow a court to revoke a community service order and impose a fine. Currently, if a court is satisfied that a person has failed to comply with community service obligations, the court can issue a warrant. If the court believes that the breach is trivial or excusable, section 71(7) will give the courts the ability to extend the term of the order so that it can be fulfilled, impose a further order, or cancel all, or some, of the unperformed service.

I note that the Bill gives judges the ability to be even more flexible in their sentencing alternatives. I think that as a goal or an objective that is desirable. Home detention for adults is confined to cases where they are of ill health, have a disability, or are frail. (The cost is about 25 per cent of the cost of imprisonment of a person.) I think that is a move in the right direction, provided that whenever home detention is entertained it does not represent any threat to the community at large.

Community service orders are a good alternative form of punishment for offenders, particularly those who do not have the capacity to pay fines. I note that on a number of occasions the Attorney-General has pointed out to the Council that the Government is having difficulty in collecting fine payments and that outstanding fines in South Australia are increasing.

Quite simply, the reason for that is not that people wish to avoid paying their fines, but with high levels of unemployment and a recessed economy the only alternative that many people have to pay their fines is to perform community service. I refer particularly to young people who commit traffic offences. The only hope that they have of paying off their fine if they are unemployed or earning a low wage is to perform community service.

The only point that I make to the Attorney-General in relation to the schemes that have been put forward is that they will have to be properly supervised to ensure that the public has confidence in these options. They are a move in the right direction, but I make the point to the Government that, if it wants to carry the public with it in walking down this path, at this stage I have no problem with the Bill before the Parliament, but the Government will need to ensure public confidence in the various schemes and options that are put forward. The way in which it will achieve that confidence is through effective communication to the public of the Government's reasons as to why these changes are necessary, and the other obvious fact that the programs are run efficiently and that, for example, people who are given home detention do not commit other crimes against the community. I support the second reading of the Bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support. Members have suggested that the provision for home detention as a condition of a bond should be widened. As members noted, the amendments in this Bill confine the use of home detention to cases where, because of the offender's ill health, disability or frailty, it would be unduly harsh for the defendant to serve any time in prison. The Government believes that there are good reasons for closely confining home detention as an up-front sentencing option available to the courts. The Department for Correctional Services is able to assess the suitability of a candidate for home detention over a long period of time; a court, in deciding that an offender is a suitable candidate for home detention, obviously cannot do this.

The importance of this long-term assessment of a candidate's suitability for home detention is shown by the success rate of home detention determined by the Department for Correctional Services as compared with the success rate of home detention ordered by a court as a condition of bail. In excess of 50 per cent of home detention orders made by courts as a condition of bail fail, whereas the failure rate of home detention on release from prison by the Department for Correctional Services is about 16 per cent. The Government will be monitoring the use of home detention under this amendment, both as to its success rate and to determine whether it has a net widening effect. It may be that offenders who would not be given a sentence of imprisonment will now be given home detention as a condition of a bond.

The Hon. Ian Gilfillan queries why the amendment to section 71 is confined to cases where the failure to perform community service is excusable on the ground that a person has gained remunerated employment since the making of the

order for community service. The Government takes the view that offenders should perform their community service obligations. However, the Government also recognises the importance of offenders finding employment and, where this is the reason why the offender has failed to perform the community service, the Government is prepared to allow the offender to pay a fine instead of fulfilling his or her obligations to perform community service. It has to be recognised that we are dealing only with people who have been brought before the court for failure to carry out their obligations. The Government is saying that gaining employment that prevents an offender from performing community service is a special case; receiving an inheritance or winning the lottery are not, in the Government's view, special cases.

The Hon. Carolyn Pickles referred to the Law Society's concerns with section 50AA. This provides that a probation officer can ask a person, at a place where a home detainee is permitted to attend, the whereabouts of the home detainee. The Law Society is concerned that the home detainee's legal practitioner may be required to disclose privileged information under this provision. The Law Society's concerns seem fanciful to me. Exactly the same provision has been in the Correctional Services Act since home detention was introduced in 1986. The Hon. Carolyn Pickles asked about the number of people on home detention. The number changes from day to day, but it is about 140 people. This includes both those on home detention as a condition of bail and those released by the department on home detention. The honourable member asked what impact this legislation would have on the numbers on home detention. That is impossible to tell but, as I have said, the Government will be monitoring the impact of this amendment.

The Hon. Terry Cameron made some observations about those who are required to undertake community service because they are unable to pay their fines, particularly because of unemployment. The position is that, with the Government's new fine enforcement legislation due to come into effect on 1 July this year, there will be a much more upfront approach to those against whom fines have been levied. That will include fairly early contact with a person who has been required to pay a fine, with a view to determining whether or not they understand the options available, particularly if they are suffering hardship. The much more proactive work which is proposed to be undertaken in relation to fines enforcement will be undertaken in a sensitive way such that the sorts of concerns that the Hon. Mr Cameron has addressed will be met.

In relation to that, there is already a trial project through what is called the Penalty Management Unit in the Courts Administration Authority following up old warrants, particularly, although there are some new offenders or offenders with newly imposed fines also approaching that unit to make arrangements for alternative means of paying or satisfying their obligations to the community. The comments made by the Hon. Mr Cameron have been noted, but I suggest that the sentiments are already being addressed by the Government. Again, I thank members for their indications of support for this Bill.

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

STATUTES AMENDMENT (RESTRAINING ORDERS) BILL

Adjourned debate on second reading.

(Continued from 8 December. Page 398.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading of the Bill and welcomes the intention of the Bill, which is to improve South Australia's protection order legislation. Domestic violence is abhorrent behaviour that must not be tolerated in society. Clearly, the issue of restraining orders has been raised by women and women's groups over a number of years, and I am pleased that the Attorney is seeking to improve this whole area.

I have been a strong and fervent advocate, as has the Labor Party nationally and within South Australia, for legislative reforms aimed at eliminating domestic violence. I have always taken a bipartisan approach wherever possible on this matter, and I have supported the Government's recent moves in this area. Since I have been a member of Parliament, I have dealt with many women who have been the subject of domestic violence. No-one can underestimate the trauma that women suffer that scars them for many years. I am not just talking about women, because the impact of domestic violence on children and their future relationships is well recorded and disturbing.

I recall having to deal with a family—a mother, her daughter and the daughter's son. The mother and the daughter were both victims of domestic violence, and the son was showing every tendency that he would carry on the family trait. The message that we, as legislators, have to give out to the community is that domestic violence will not be tolerated, that the full force of the law will be directed to perpetrators and that victims will be protected from further violence and harassment. Hopefully, this Bill will assist in that direction.

The National Committee Report on Violence, which was commissioned by the Federal Labor Government (and, from my recollection, was produced in the early 1990s), was probably one of the most definitive research documents on violence in Australian society in all its forms. Some of the disturbing facts about the general acceptance by some people in the community that it was okay to slap the wife around a bit, unfortunately, still persist today. I have certainly been very lucky that my marriage to John is happy and harmonious, but that does not mean to say that I do not understand, as a legislator, the trauma the victims go through because of this abhorrent crime. More particularly, there is ample evidence to show that violence is a learned behaviour and that the pattern can continue throughout generations.

I circulated the Bill before us for consultation and received comments from the Women's Legal Service. Its submission states, in part:

> In general, we support and welcome the majority of the proposed amendments and consider that the Bill overall is likely to extend and improve the level of protection provided to women who experience domestic violence. However we seek and suggest several changes to the Bill, particularly in relation to: court initiated orders; service upon the defendant of variations to restraining orders in circumstances which endanger the complainant; ensuring that a defendant cannot avoid a restraining order by merely disputing the complainant's allegations at the confirmation hearing, and without showing why the order should not be confirmed; and awarding costs against a complainant in restraining order proceedings because the court judges the complainant's application to be 'unreasonable'.

I would like to hear the Attorney's response to these issues before we go into the Committee stage. I presume that the Bill was circulated to the Women's Legal Service for its comment. Can the Attorney also advise whether the South Australian Government participated in the Domestic Violence

Legislation Working Group, a group of interstate officials that developed model domestic violence laws?

As I have said previously, I welcome the amendments proposed and, in particular: the fact that courts can make restraining orders based on evidence of interstate incidents, with the authority to issue an order although the defendant is interstate; and extending the period during which a restraining order is to be served upon the defendant, in the event that more time is needed to find the defendant. Courts will now be able to order confiscation of a firearm if threats are made involving a weapon, and an order can also be made that a defendant not carry a firearm in the course of their employment. This also includes serving a restraining order on their employer. Finally, costs will not be awarded against a complainant in these proceedings unless she has acted in bad faith or unreasonably.

I do not wish to hold up the passage of the Bill. The Opposition will support the Government's amendments but, before the Bill goes to another place, will the Attorney let me have an idea about what could be considered by the courts as unreasonable, and what are the costs involved in obtaining a restraining order? The Opposition supports the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support of this Bill. I acknowledge the Hon. Mr Gilfillan's praise of the program compiled to educate police officers in dealing with domestic violence situations. The Government does recognise that the Bill is just one element of a wider strategy that needs to be very comprehensive to combat domestic violence and to protect victims of domestic violence. We support the view expressed by the Hon. Mr Gilfillan that it is equally important that we look at the means of dealing with domestic violence.

The Government is committed to dealing with domestic violence issues in a way which is positive and creative but recognises that there are always more things that can be done to deal with this social problem—not just to deal with the victims of domestic violence but to deal with prevention. When I made my ministerial statement on Tuesday this week, at the end of that I identified a number of the programs which were in place in Government and non-government agencies directed towards not just providing support but also providing innovative programs for prevention before domestic violence ever occurs. I think, in the longer term, that is the objective we have to seek, that is, to prevent domestic violence rather than just, unfortunately, having to deal with the aftermath of it.

I indicated in that ministerial statement that the Government has established a ministerial forum for the prevention of domestic violence. That involves Government and non-government agencies. It focuses on identifying common issues of concern to Government and non-government sectors in relation to the prevention of domestic violence and seeks to coordinate programs for support but, more particularly, for prevention. In addition, the Government has identified violence and abuse—and that includes domestic violence—as one of the six State health priority areas to benefit from a Government focus.

In May 1998, a paper was released with the results of a survey into the violence and abuse health priority area. Much of the information contained in the report has never been collected before in South Australia, and it will be a valuable contribution to raising awareness of the extent and impact of interpersonal violence and consideration of associated needs for appropriate services.

The Government is committed to developing wide-ranging measures to combat domestic violence. Since the introduction of the Bill, the Government has become aware of a number of measures that will further improve the operation of the restraining order legislation. It is not just legislation relating to restraining orders but also creates an offence of domestic violence assault.

Members will see from their Bill folders that I will be moving a number of amendments to the Bill. Those amendments will clarify Parliament's intention in enacting section 4(2)(c) of the Domestic Violence Act. They will make it clear that a restraining order continues in force until the conclusion of an adjourned hearing and make it clear the court has the discretion to confirm a restraining order if the defendant disputes the allegations giving rise to the order but consents to the order.

Finally, they will insert a new provision to require a defendant to seek leave of the court prior to making an application for variation or revocation of a restraining order. The Government believes that the Bill (with the amendments that I will propose) will be effective in improving significantly South Australia's legislation, which already provides a practical approach to protection orders and enforcement.

I thank, too, the Hon. Terry Cameron for his indication of support for this Bill, and again I repeat what I have said earlier. The Government does recognise the importance of effective domestic violence legislation, but acknowledges that it is only one factor in dealing comprehensively with combating domestic violence, including the protection of victims and focusing upon prevention.

The only other areas to which I need to address some remarks are those which were raised by the Leader of the Opposition, and I will therefore seek leave to conclude my remarks to enable me to respond in detail to the contribution of the Leader of the Opposition.

Leave granted; debate adjourned.

CRIMINAL LAW CONSOLIDATION (JURIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 February. Page 646.)

The Hon. T.G. CAMERON: This Bill amends sections 246 and 247 of the Criminal Law Consolidation Act 1935, and does so in order to fortify the principle of confidential jury deliberations and juror identities. The Bill seeks to further protect the privacy and security of individual jurors, which, in turn, will encourage people to serve on juries when requested. It will also serve to protect juries from outside influences, ensure the finality of verdicts and enable juries to bring in verdicts that may be unpopular.

The Bill will create offences for improperly disclosing, soliciting or obtaining information relating to jury deliberations and jurors' identities for the purposes of publication. It will also create an offence for the publication of such material.

This legislation arose from some Supreme Court bench criticism in 1992 of the standard of measures ensuring that jury deliberations were kept secret. The judges, who felt that the law did not go far enough in protecting confidentiality, recommended a general prohibition.

Other main points of this legislation include penalty for offences of a fine of $25 000 in the case of a body corporate, and $10 000 fine or imprisonment for two years in any other case. The Bill will not prevent appropriate authorities investigating and prosecuting improper conduct by jurors or research and public discussion of jury functions. If I make a mistake here, Mr Attorney, please correct me; I am not a lawyer.

The Bill to a large extent abolishes the distinction between the protection of jury deliberations and jurors' identities, and the changes will bring South Australian law into line with legislative changes enacted by Victoria, Queensland, ACT and the Northern Territory following an agreement by the Standing Committee of Attorneys-General to introduce a nationally consistent approach.

My office was contacted by some media people who expressed concerns regarding the implications that this might have for freedom of press. While that is a legitimate concern for them to raise, I think it must be balanced against the concerns that this Bill is trying to overcome. I believe not only that this Bill goes a long way towards protecting the privacy and security of individual jurors but also that members of the public will be more likely to perform the public duty of serving on juries if this legislation was passed.

Notwithstanding the freedom of press concerns that were raised with me, on this occasion I think they are overridden by concerns about maintaining the integrity of the jury system as part and parcel of our legal system in South Australia. I support the Bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank all members for their contributions to the second reading of this Bill. The Hon. Mr Gilfillan has indicated that he is at a lost to identify the problems that the Government is trying to fix. I believe it would be a great pity if Parliament was only willing or able to consider legislation aimed at fixing a problem that has also already occurred.

I acknowledge that there does not seem to have been a major problem in South Australia with regard to disclosure of jury deliberations. However, I would like to think that we can be proactive and guard against such activity becoming a problem in this State.

I think it is incorrect to take the view that inappropriate disclosure of jury deliberations is unlikely to happen here. Only last year in New South Wales a radio personality allegedly solicited and published information from a juror about what went on inside the jury room during a murder trial. Such disclosure and publication now arguably places doubt on the finality of the jury's verdict and may place pressure on the 11 other jurors to explain the reasons for their verdict or decision. While this case did not occur in South Australia, there is nothing to suggest that such a situation could not arise here.

The courts have consistently and strongly encouraged and guarded the secrecy of jury room deliberations by making it extremely difficult for evidence of those deliberations to be used as a basis for appeal. They have done so to protect two fundamental principles: first, the need to ensure the finality of a jury's verdict and, secondly, to protect jurors from harassment and pressure to explain reasons for their verdict or to alter their view. I believe that these two principles are fundamental in retaining public confidence in the jury system.

This Bill will protect from disclosure the discussions that go to the very heart of a jury's verdict. It is protection of these discussions which ensures that the public can be confident that the verdict reached is final and allows jurors to make statements and opinions in the jury room without having to explain the reasons behind those decisions at a later date. The Bill is not intended to deal with comments or statements made on matters peripheral to the trial, such as how to ask court officials for a toilet break, and so on.

This Bill does not ban public discussion of the jury system. However, the Bill will ensure that discussion, critique and improvement, if necessary, of the jury system can be fostered responsibly through research. The honourable member made comments about political factors intruding on an Attorney-General's decision to approve a research project. However, I would suggest that this fails to recognise that a number of the Attorney-General's responsibilities must be undertaken independently, and my predecessor, the Hon. Chris Sumner, made a statement in the mid 1980s about the role of the Attorney-General in that context. A number of the Attorney-General's responsibilities also must be undertaken in the public interest.

It is well recognised that an Attorney-General must not allow political considerations to affect his or her actions in those matters in which he or she has to act in an impartial way. It is in everyone's interests that research be conducted into the jury system. I concur with the view that the jury system could easily come into disrepute unless its workings are understood and the community has confidence in it. However, surely a discussion of the jury system is more constructive when divorced from a particular case with particular jurors and discussed from a holistic point of view. Accurate comment on the jury system cannot truly be obtained when only discussing a jury's deliberation in one case.

I note that the honourable member has on file some amendments to the Bill. The Government will oppose them on the basis that the proposed amendments fail to provide adequate protection for the confidentiality of jury deliberations. In addition, I might say that, as the Hon. Terry Cameron has already stated, this Bill is in line with the model Bill agreed to by the Standing Committee of Attorneys-General, which had Labor and Liberal Attorneys-General on it and always does, I think, depending on political fortunes in respective jurisdictions. As I say, the Bill is in line with the model agreed to by the Standing Committee of Attorneys-General and that was intended to provide a minimum standard of protection to the confidentiality of jurors' identities and jury deliberations.

Consistency across Australia is desirable due to the national nature of the media as it focuses upon criminal trials. As I indicated in the second reading explanation, and again, the Hon. Mr Cameron referred to this, Victoria, Queensland, the Australian Capital Territory and the Northern Territory have already enacted legislation adopting the standing committee's model Bill, which these amendments will also reflect.

The Hon. Mr Lawson raised a question. He sought the reason for deleting section 247(2), which makes it an offence for a person to give, offer or agree to give a material benefit as a reward or inducement for the disclosure of information about the deliberations of a jury. The provision was deleted because new section 246(3), which makes it an offence to solicit information with the intention of publishing or facilitating the publication of information, covers the giving or offering of a material benefit or reward for the disclosure of protected information. As a consequence, existing section 247(2) is considered unnecessary.

I will now deal with a couple of other matters that are relevant to the amendments proposed to be moved by the Hon. Mr Gilfillan, which might help for complete understanding of the issues. Among other things, his amendments seek to restrict the period for which it will be an offence to disclose, solicit, obtain or publish protected information to a confidentiality period, which he set at three months. We do not accept that that is an appropriate restriction and are of the very strong view that there should not be such a restriction in order to protect confidentiality of jury deliberations. My understanding is that in no other jurisdiction where the model provisions have been adopted has a period of confidentiality actually been fixed. It is in fact at large. They are the reasons why the Government does not support the amendments. When we get to those in Committee consideration, we can deal with them in greater detail.

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: I have already dealt with that. Let me repeat what I have just said concerning old section 247(2). The present subsection makes it an offence for a person to give, offer or agree to give a material benefit as a reward or inducement for the disclosure of information about the deliberations of a jury. That was actually deleted because new section 246(3) makes it an offence to solicit information with the intention of publishing or facilitating the publication of information, and that actually covers the giving or offering of a material benefit or a reward for the disclosure of protected information.

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: It includes, 'makes it an offence to solicit'.

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: I will have another look at that in a moment during the Committee consideration and clarify my own thinking on it. I thank members for their indications of support.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. IAN GILFILLAN: I move:

Page 1, lines 21 to page 2, line 3—Leave out proposed subsections (2) to (4) and insert:

(2) A person must not disclose protected information if the person is aware that, in consequence of the disclosure, the information will, or is likely to be published within the confidentiality period.

Penalty: In the case of a body corporate—$25 000.

In any other case—$10 000 or imprisonment for 2 years.

(3) A person must not solicit or obtain protected information with the intention of publishing or facilitating the publication of that information within the confidentiality period.

Penalty: In the case of a body corporate—$25 000.

In any other case—$10 000 or imprisonment for 2 years.

(4) A person must not publish protected information within the confidentiality period.

Penalty: In the case of a body corporate—$25 000.

In any other case—$10 000 or imprisonment for 2 years.

(4a) A person must not, after the confidentiality period, publish or otherwise disclose protected information that identifies, or is likely to identify, another person as, or as having been, a juror in particular proceedings without the consent of that other person.

Penalty: In the case of a body corporate—$25 000.

In any other case—$10 000 or imprisonment for 2 years.

(4b) In proceedings for an offence against subsection (4a), the burden of proving consent to the publication or disclosure lies on the defendant.

These amendments actually implement the major part of what I indicated in my second reading contribution. We believe that the strict and complete confidentiality as intended by the Bill is excessive. In fact, it is counterproductive in nourishing the jury system and its acceptance by the community at large that there will be a permanent indefinite exclusion of any disclosure of a particular case. In my second reading speech I did indicate several cases where, quite clearly in my view, there had been revelations from a jury deliberation, and a composition of certain juries, which emphasises the point I am making in this amendment.

We have recognised that there is good reason for protecting the identity of jurors and for some circumspection as to how information from jury deliberations will be used. We understand the need for the Bill to achieve that. However, the imposition of total secrecy will leave the jury system open to quite extraordinarily damaging inferences and interpretations. It is my belief that we will live to regret this legislation, as there will be ways in which purportedly accurate observations about what went on in a jury room will get out and be distributed. We already have seen that the Internet is an extraordinarily effective means of distributing information.

It is naive to believe that the Bill will be effective in achieving its aim of confidentiality. The substantial down side is that, how ever much it achieves that, it will go further and undermine the public's confidence in the jury system. I know that the Attorney has discussed this measure in the second reading debate, and I do not intend to go over all that again. The significant point is the confidentiality period and, in relation to protecting information, means the period ending three months from the completion of proceedings to which the information relates and any appeal proceedings relating to those proceedings. That is the substantial difference that my amendment would make to the original Bill.

The Hon. K.T. GRIFFIN: The Government opposes the amendments. As I indicated in my reply, the Government is of the view that the amendments are not well founded. I certainly do not believe that the amendments in practice will bring the jury system into disrepute. What is more likely to bring it into disrepute is even whether after three, six or 12 months there is an examination of what went on in the jury room and who had what views. That is what will bring the jury system into disrepute. If there is any suggestion from a juror that another juror has committed an offence, that can be properly addressed. If there is a genuine concern about the way in which the system is operating in particular circumstances, then there is provision for a proper research project.

That is the way that we should more effectively deal with it, rather than by saying, 'After three months it is basically open to a much more detailed scrutiny in relation to particular cases.' Let's face it, some cases will be notorious for 20 years and some will be notorious for 25 or 30 years. I do not want to name them, but everybody in this Chamber would be able to identify some cases of some public notoriety with regard to which everybody would like to find out: 'Why did the jury make this decision?', 'Why did the jury not make that decision?', 'Did they all agree?' or 'Who persuaded who in?'. Of course, it may not be just in the context of findings of guilty but also of not guilty. It is for those reasons that I would be very nervous about the amendments moved by the Hon. Mr Gilfillan.

In the second reading stage, while I was making the reply, he did interject and ask—in terms of offences—about the juror who says to someone, 'You give me so much and I will tell you what went on.' That is openly soliciting a reward for

a proposed disclosure and I did take it on notice. For the honourable member's benefit, proposed section 246(2) covers that, as follows:

> A person must not disclose protected information, if the person is aware that, in consequence of the disclosure, the information will or is likely to be published.

That is the offence provision which deals with the juror's soliciting a reward or even no reward, but with some understanding that it will be published. I think that answers the question.

The Hon. Ian Gilfillan: I have not moved that amendment yet.

The Hon. K.T. GRIFFIN: I know. I am just giving the information so that everyone has the full picture.

The Hon. CAROLYN PICKLES: The Opposition opposes the amendments. The Attorney has canvassed the issues adequately and we have certainly reminded ourselves of the second reading speech that the Attorney made back in November which talks about the Standing Committee of Attorneys-General and the purpose of developing effective legislation to protect the confidentiality of jury deliberations. I feel that the Hon. Mr Gilfillan's amendment will do the opposite of what he is canvassing it will do. I think it will not provide the measures that he believes it will. The Bill itself is much stronger and it is preferable in these cases, also where we have tried to develop model legislation, to accept the provisions that have been worked out across the nation. I believe that the Hon. Mr Gilfillan's amendments diminish the Bill, watering it down considerably.

The Hon. IAN GILFILLAN: I wish to make one comment on this amendment. I am sorry that the amendment will not receive support from either Labor or Liberal in this debate. One of the points the Attorney made concerned uniformity with the Attorney-Generals' agreed position. I try as best I can to totally divorce my assessment of legislation from whether it does or does not conform. That argument should stand on its own and we should agree in principle about that away from a particular piece of legislation.

I want to re-emphasise that I can see that there are advantages for uniformity in different areas of legislation, but I am not persuaded that there is sufficient argument for uniformity for us—certainly for the Democrats—to surrender what we believe is a constructive approach to legislation dealing with one of the most precious legal assets that we have in our system. Many people would like to misuse it and demean it by false rumour and bad publicity, and sensationalise it. I believe that the restraints on the type of information that can be shared and the offences for inducement—and I gather from what the Attorney is saying that he also supports that it should be an offence to ask and seek reward for disclosure—are there. With those safeguards in place, we are convinced that the danger to the jury system is far greater if we try to impose this artificial boundary of secrecy for all time. It is just not human nature that it will occur. As I said before (and I will not repeat the arguments), I believe it will fail in its intended purpose and I also believe that, even if it did succeed, it would be counterproductive and would go a long way towards eroding the public's confidence in the jury system. It is our intention to call for a division if I am not successful on the voices.

The Hon. K.T. GRIFFIN: I want to make one observation about uniformity: I do not have any disagreement with the Hon. Mr Gilfillan's observations about uniformity. It is not an end in itself. I am one of those who are very vocally opposed to uniformity for uniformity's sake, and I think everyone recognises that. I used 'uniformity' in the context of minimum standards.

The Hon. Carolyn Pickles: Minimum standards across the nation.

The Hon. K.T. GRIFFIN: Minimum standards. There are some areas where it is desirable to have uniformity, and this is one area where minimum standards are appropriate because of the national coverage that the media gives to events that might occur in the criminal justice system, particularly with jurors in one jurisdiction or another. I have already mentioned the New South Wales case which might tend to set a precedent for the way in which disclosure of information by jurors may be dealt with in the future. The other point is that South Australia was the proponent of minimum standards for disclosure of information about juries so, whilst the others have picked up this legislation more quickly, it is an area where I, in particular, have a very strong interest and view that we should be moving in this direction.

The Committee divided on the amendment:

AYES (3)

Elliott, M. J.	Gilfillan, I. (teller)
Kanck, S. M.	

NOES (13)

Cameron, T. G.	Crothers, T.
Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Holloway, P.
Lawson, R. D.	Pickles, C. A.
Redford, A. J.	Roberts, T. G.
Schaefer, C. V.	Weatherill, G.
Zollo, C.	

Majority of 10 for the Noes.

Amendment thus negatived; clause passed.

Clause 4.

The Hon. IAN GILFILLAN: I move:

Leave out this clause and insert:

Substitution of s.247

4. Section 247 of the principal Act is repealed and the following section is substituted:

Harassment etc., to obtain information about jury deliberations or identities

247(1) A person who harasses a juror or former juror for the purpose of obtaining protected information is guilty of an offence.

Penalty: In the case of a body corporate—$25 000.
In any other case—$10 000 or imprisonment for 2 years.

(2) A person who—

(a) gives, offers or agrees to give; or

(b) seeks, receives or agrees to receive,

a material benefit as a reward or inducement for the disclosure of protected information is guilty of an offence.

Penalty: In the case of a body corporate—$25 000.
In any other case—$10 000 or imprisonment for 2 years.

(3) In this section—

'protected information' has the same meaning as in section 246.

This is a matter that we have discussed: whether it should be an offence for a juror to seek reward for the disclosure of information in contradiction to someone who is seeking information and offering money, by way of either a bribe or a payment, to induce a juror to discuss and give information about the deliberations of a jury. The Attorney went to some pains (and I thank him for it) to satisfy me that the current situation with the Bill and the Act would make it an offence for a juror to approach either some media entity or individual to entice them to give financial or other reward in exchange for information in respect of jury deliberations.

Unfortunately, I am unclear whether this amendment is still not necessary to achieve that. I believe that this amendment very clearly spells out that it would be an offence for a juror to behave in that way, and I am very keen for that to be firmly and clearly established in the legislation. So, it is my intention to proceed with this amendment. If the Attorney is able to make it clearer to me and reassure me that, indeed, it is an unnecessary amendment, I will not be too disturbed if it is beaten, but I would like to open up the discussion again to hear the Attorney's position.

The Hon. K.T. GRIFFIN: If one looks at new section 246(2), that is up front: a person must not disclose protected information if they are aware that it will be, or is likely to be, published. So, that is the first offence. With regard to the second offence, subsection (3) provides that a person must not solicit or obtain protected information with the intention of publishing or facilitating publication of that information. The word 'solicit' covers the issue of harassment.

The Hon. IAN GILFILLAN: I understand that to be soliciting information.

The Hon. K.T. GRIFFIN: Yes.

The Hon. IAN GILFILLAN: But how can a juror who has the information solicit information? The juror who has information will be looking to make the information available.

The Hon. K.T. GRIFFIN: I refer the honourable member back to subsection (2), which provides that a person must not disclose protected information. We are looking at the actual disclosure, and that applies to anybody, whether it is a juror or someone a juror has given information to, if the person is aware that, as a consequence of disclosure, information will or is likely to be published. The focus ultimately is on the publication of the information. This provision does not depend on a fee or reward but simply applies if it is disclosed where the person is aware that in consequence of the disclosure information will or is likely to be published. That applies not just to those who publish: it applies to those who are jurors or former jurors and those who might be intermediaries.

There is also the prohibition in subsection (3) against soliciting or obtaining with the intention of publishing or facilitating the publication of that information. That is really the focus of this: it is on the publication. In addition to that, under the general criminal law, there is the general offence of conspiracy; and aiding and abetting are still provisions in the criminal law. It can be an offence to attempt to commit these offences or an offence to conspire to commit one of these offences. So, there is a very wide ambit to them which I would suggest is more than adequate to deal with the behaviour we are trying to prohibit, such that you do not really need to go to the provision of harassment which is certainly broader but which I would suggest is very largely covered by the provisions in our Bill.

The Hon. IAN GILFILLAN: I concede that with the defeat of my earlier amendment this requirement would have a much narrower field, but I am not convinced that it totally excludes it. I can see that the amending Bill quite clearly makes it an offence where there is the intention of publishing or facilitating the publication of that information. So, to expedite the proceedings I indicate that I will proceed with my amendment; I am not persuaded that it is not still a useful amendment to the legislation. I can do no more than make that point.

Having listened intently to what the Attorney has said, I leave open the possibility that there may be further argument, but I am not prepared to sacrifice the position at this point, because I still believe there will be areas of harassment. I am not so sanguine about the effect of the legislation. I have indicated that previously. I think there will be areas where people will still seek information about what happened in a jury room, and we want to make that an offence where that is done.

I also believe that, under the same area of consideration, it should clearly be indicated as an offence if a juror, even if the information is purportedly not for publication, looks to hawk the knowledge that he or she has for some reward. It is with that background that I still persist with my amendment. I would like to feel that it could be supported on the basis that it is a safeguard, at the very least, and that it may be quite a useful amendment to the Bill.

The Hon. CAROLYN PICKLES: The Opposition opposes the amendment. I believe that new section 246(3) which refers to soliciting or obtaining protected information covers the issue of harassment. It would seem to me that it is just a question of terminology. I should have thought that the word 'soliciting' would imply that someone is trying, by whatever means, to elicit information with the intention of publishing or—

The Hon. Ian Gilfillan interjecting:

The Hon. CAROLYN PICKLES: —disclosing. I think it does cover the issue. I cannot see that the honourable member's amendment is necessary. Presumably, it refers to a person who harasses a juror to obtain protective information (it is just in that sense—not doing anything with it, but just wanting it). God knows why you would want it anyway, unless you were going to publish it or do something with it. I believe that the amendment to repeal proposed new section 246(3) will cover that quite adequately. The Attorney has, I believe, reassured the Opposition that that is the case.

Amendment negatived; clause passed.

Title passed.

Bill read a third time and passed.

EVIDENCE (MISCELLANEOUS) AMENDMENT BILL

In Committee.

Clauses 1 to 4 passed.

Clause 5.

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

Page 2—

Line 6—Leave out 'when' and insert: entailed in

Line 8—Leave out 'when' and insert—entailed in

Line 28—Leave out 'when' and insert: entailed in

The first amendment is straightforward, and it is mirrored in the subsequent amendments to the clause. Let us take as an example proposed section 9(1) under which a person is presumed to be capable of giving sworn evidence in any proceedings unless the judge determines that the person does not have sufficient understanding of the obligation to be truthful when giving sworn evidence. That rather suggests that the judge has to be satisfied while the person is giving sworn evidence, when what we are seeking to do is establish a test of the person having a sufficient understanding of the obligation which is entailed in giving evidence, that is, what does giving evidence actually mean; what does being truthful in that context actually mean, not just when or while you are giving the evidence? It is grammatical but it is nevertheless an amendment of some significance to get that context right.

The Hon. CAROLYN PICKLES: The Opposition supports the amendments.

Amendments carried; clause as amended passed.

Clauses 6 and 7 passed.

Clause 8.

The Hon. IAN GILFILLAN: I move:

Page 3, lines 7 to 9—Leave out this clause and insert:

8. Section 13 of the principal Act is amended—

(a) by striking out from subsection (4)(a) 'take an oath' and substituting 'give sworn evidence';

(b) by striking out paragraph (a) of subsection (10);

(c) by inserting after subsection (10) the following subsection:

(11) This section does not apply to a witness who is under 16 years of age.

Insertion of s. 13A

8A. The following section is inserted after section 13 of the principal Act:

Protection of children giving evidence

13A. (1) If a child is to give evidence in any proceeding the court must, subject to subsection (2), order that the evidence be given outside the courtroom and transmitted to the courtroom by means of closed-circuit television or any other similar technology prescribed for the purposes of this section.

(2) An order must not be made under subsection (1) if—

(a) the order would prejudice any party to the proceedings; or

(b) such an order would be inappropriate because of the urgency of the matter: or

(c) the court is satisfied the child desires, and is able, to give evidence in the courtroom; or

(d) the child is a defendant in a proceeding before the Youth Court.

(3) Despite subsection (2) (d), in the case where the child is a defendant in a proceeding before the Youth Court an order of the kind referred to in subsection (1) may he made if the court is satisfied—

(a) that—

(i) the defendant may suffer mental or emotional harm if required to give evidence in the ordinary manner; or

(ii) the facts may be better ascertained if the defendant's evidence is given in accordance with such an order; and

(b) that the defendant desires that such an order be made.

(4) If a court makes an order of the kind referred to in subsection (1), the following provisions apply:

(a) the technology used to enable evidence to be given outside the courtroom must be operated in such a manner—

(i) that while the child is giving evidence, the child can be seen and heard by the judge, and (in the case of a trial by jury) the jury and (in the case of any criminal proceeding, unless the court decides otherwise in order to protect the child) the defendant; and

(ii) that any person accompanying the child, can be seen by the parties, the judge, and (in the case of a trial by jury) the jury while the child is giving evidence;

(b) if the identity of the defendant is at issue, the child must give evidence identifying the person in the presence of the defendant but the court—

(i) must allow the child to give that identification evidence after the completion of the child's other evidence; and

(ii) must ensure that the child is not in the presence of the defendant for any longer than is necessary to give that identification evidence;

(c) the court may order—

(i) that a court officer be present at the location at which the evidence is being given; or

(ii) that the child be accompanied by a relative or a friend for the purpose of providing emotional support.

(5) If the court does not make an order of the kind referred to in subsection (1) the court—

(a) must order that special arrangements be for the giving of evidence by the child in order to restrict the contact (including visual contact) between the child and any other person or persons; and

(b) may order that the child be accompanied by a relative or a friend for the purpose of providing emotional support (and must do so if required under section 12(4)).

(6) Special arrangements under subsection (5)(a) might include—

(a) the use of a screen, partition or one way glass; or

(b) planned seating arrangements; or

(c) the adjournment of the proceeding or any part of the proceeding to a different location.

(7) If, on a trial by jury, a court makes an order of the kind referred to in subsection (1), the judge must—

(a) inform the jury that it is standard procedure for children's evidence to be given by those means; and

(b) warn the jury not to draw any inference adverse to the defendant, and not to allow the order to influence the weight to be given to the evidence.

(8) If, on a trial by jury, a court orders—

(a) that special arrangements be made for the giving of evidence by a child under subsection (5); or

(b) that a child be accompanied by a relative or a friend for the purpose of providing emotional support,

the judge must—

(c) inform the jury that it is standard procedure for such orders to be made when evidence is being given by a child; and

(d) warn the jury not to draw any inference adverse to the defendant, and not to allow the special arrangements, or the presence of an accompanying person, to influence the weight to be given to the evidence.

(9) In this section—

'child' means a person under the age of 16 years.

In essence, this lengthy amendment picks up the availability and the expectation of a child to give evidence securely and detached from exposure to people of whom that child may have quite a deep-seated fear and concern. I spent some time in the second reading debate arguing the case for it, and it is not of great advantage to the Committee to go through all that argument again.

In response to the Attorney-General's second reading speech, I make the point that, although under the present legislation a child can be given the protection of closed-circuit television, it is just not occurring. What is more, there is no accumulation of data upon which anyone can give us some satisfactory answers. What we do know, by anecdotal evidence at least, is that not only is it not being asked for by the attorneys who represent the children but also it is not being implemented by the judges who preside in the courts. It is just not happening.

We have had a first-hand account from lawyers who claim that they do not use the opportunity to protect the child on closed-circuit TV because it is to their advantage to expose the child to the drama and get a stressful response so that it can be a persuasive tool on a jury. That is what I find obnoxious about the current situation, and that is why I have moved this amendment, which is in one composite part and which seeks to put the expectation at 180° to the current situation so that there will need to be intervention with substantial argument not to allow the child to give evidence in a closed-circuit television circumstance.

That is the matter upon which the Committee will support or oppose my amendment. It will depend whether, on deliberation, the Committee feels that the children of South Australia deserve to have the presumption that they will be able to give evidence in a protected environment through

closed-circuit TV, and that only on rare occasions will they be asked to be present in court with people who are alleged to have committed offences on them personally, physically, and who are able physically to impose some impression on them and, as I said a little earlier, expose them to the immediate face-to-face pressure and influence of a lawyer who in vigorous cross-examination is seeking to manipulate that child's emotions for legal advantage. On that basis, I urge support for the amendment.

The Hon. K.T. GRIFFIN: It is important to try to put this into proper context. The Government will oppose the amendments and will do so quite strenuously. The honourable member is quite entitled to move the amendments. It is a Bill that deals with the Evidence Act, and the Evidence Act deals with issues of vulnerable witnesses, but it should be noted that it is unrelated to the issues which the Bill seeks to address, namely, the evidence of children in the context of the oath or affirmation. I intend to put a lot of information on the record in relation to the amendments, and then to seek leave to report progress so that members can consider the arguments for and against the amendments.

So far as the Government is concerned, we will strenuously oppose them because we believe that they will be detrimental to the interests of vulnerable witnesses, particularly children, rather than being beneficial. Although the Hon. Mr Gilfillan talks about there being no data available in relation to the use or otherwise of closed-circuit television, let me say that the primary objective of the Government is not to collect data: it is to protect witnesses. In relation to child witnesses, it is to ensure that age discrimination in relation to them is removed and, in terms of their giving evidence, to provide a wide range of discretions to the court particularly in the context of the best interests of the child.

The first amendment would remove children from the category of vulnerable witness for the purpose of making a separate and uniform provision for all children. That is an approach which we strenuously oppose. It runs counter to the whole aim of the Bill, in that the amendment treats all children as being under a special and automatic disability by reason of age alone. The Bill is based on the principle that children should not be treated differently from adults merely on the ground of their chronological age, but that each child's competence and ability is to be considered individually in the circumstances of each and every case.

The amendment, however, reflects a view that all children must be similar and must be under a disability in giving evidence regardless of the circumstances. As I have indicated, the amendments are not germane to the principal purpose of the Bill. They deal with an entirely different matter. I would suggest that, if we are to go down the track that the Hon. Mr Gilfillan proposes in his amendments, we certainly need a lot more time to consider the full ramifications of them—not just the ramifications for the child but also in terms of resources. Does this mean we have to put closed-circuit television in every Supreme Court room and District Court room around the State, and in what circumstances should we train staff to use it? That is not an argument against the proposition. It is merely one of the factors which I think has probably not been considered in the context of the Hon. Mr Gilfillan's raising the issue by way of amendment.

The Government's view in relation to vulnerable witness measures is that they should be considered in each case, as I have said, having regard to the nature of that case and the particular needs of the child or other vulnerable witness who might be involved. It might be worth pointing out that there are other witnesses besides children who are covered by the vulnerable witness provisions of the Evidence Act. For instance, the frail elderly woman who gives evidence against a youth who may have knocked her down and stolen her handbag may be every bit as vulnerable as the young person, even more so. So, there is no reason why a specific set of rigid rules needs to be made about children on the grounds of their age alone.

The way in which this amendment is drafted could also create some legal and procedural nightmares for courts and their users. It would add considerably to the cost of courts administration, but more particularly of legal representation, and may have the effect of delaying the resolution of even quite simple matters. So, both in theory and in practice, that first amendment is undesirable.

Proposed new section 13A—and it is appropriate to take it all in its context—will also be opposed by the Government. If enacted, it would have the effect of compelling the use of closed-circuit television in every case in which a child is a witness.

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: Well, there is a presumption in favour of it. There is also a compulsion there. The amendment provides, 'If a child is to give evidence in any proceeding, the court must order that the evidence be given outside the courtroom.' Of course, it is subject to subsection (2), and one might describe that as a presumption, but the direction to the court is unless it has some compelling reason—and we will deal with those in a minute—then closed-circuit television must be used. Whilst in subsection (2) there may be some judicial discretion, it is rather limited.

The amendment, subject to that proviso, would require closed-circuit television in any situation in which a child under 16 gives evidence, and that could include cases where the child is a plaintiff in an injury case, for example, or a witness to a traffic accident or even a mishap in a schoolyard. It would apply even where the other party would not be present in court, because that party is represented by an insurer or perhaps even because liability has been agreed. It would apply even if the child's evidence relates only to a peripheral matter or maybe take only a few minutes. It would require the use of closed-circuit television in the Youth Court in the case of a child witness giving evidence against another child, even though by the provisions of subsection (2) the defendant child must ordinarily not use closed-circuit television.

So, there are some issues that have to be addressed. I do not think anyone can assume that all of this will really benefit a child who might be the subject of the legislation. Subsection (2) removes most judicial discretion and flexibility. Some additional difficulties will be created where, under paragraph (c) of subsection (2), the court must not make an order if the court is satisfied that the child desires and is able to give evidence in the courtroom. I suppose what that will ultimately mean is that the court will have to examine carefully what the child does desire, whether the child understands what he or she does wish, and that the child is able to give evidence in the courtroom.

As we have already discussed in the principal part of the legislation, that may well require the need for the judge to have regard in those circumstances to whether or not a child has a belief in divine retribution. In the circumstances of proposed new subsection (2)(c), nevertheless the judge in those circumstances has to be satisfied that the child is able to give evidence in the courtroom, as opposed, I suppose, to

giving evidence by closed-circuit television. I do not how any person, whether it be a judge or otherwise, is able to make that distinction. What will be the criteria?

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: With respect, it is very much less restrictive in the present circumstances, because there is a discretion—and I will deal with that in a moment in more detail—but my information is that, by virtue of a decision of the Full Supreme Court, which involved the examination of the child and the calling of evidence in relation to a child, the court has determined that, in those circumstances where the child requests the opportunity to give evidence by either a one-way screen or by closed-circuit television, the court is to allow that to occur.

With regard to the honourable member's amendment, one could go down to one of the other exceptions; for example, proposed new subsection (2)(d) provides that an order must not be made by the court if the child is a defendant in a proceeding before the Youth Court. But then, notwithstanding that provision, where the child is a defendant, an order may be made by the court if the court is satisfied that certain conditions apply, including the fact that the defendant may suffer mental or emotional harm if required to give evidence in the ordinary manner or the facts may be better ascertained if the defendant's evidence is given in accordance with such an order. Again, they are matters of inquiry which I would suggest will be time consuming and will detract from the processes of the court which are all directed towards getting to the facts.

There are some difficulties there, too. Of course, it makes it very complicated, because there is an obligation on the court to grant a request, but the request must not be granted in respect of a defendant in the Youth Court but may be made if the court is satisfied of certain things in the Youth Court circumstances. That is a particular difficulty that may even, I suppose, if you are looking at mental or emotional harm, require the calling of expert psychological and psychiatric evidence as to the emotional circumstances and propensities of the particular child. Does that mean that the child has to be subjected to psychological examination and questioning, perhaps as to things that that child may have found distressing in the past: for example, 'How long did the distress last?'; 'Did it require treatment?'; 'Are there other relevant factors?'; 'Is that an issue of privacy of the child which should be explored?'; and 'Is it relevant to explore it in the context of the charge which has been laid?'—all for the sake of determining whether or not closed-circuit television should be available in the Youth Court in those circumstances.

There is another difficulty regarding proposed new subsection (5), which provides:

> If the court does not make an order of the kind referred to in subsection (1) the court—
>
> (a) must order that special arrangements be made for the giving of evidence in order to restrict the contact (including visual contact) between the child and any other person or persons; and
>
> (b) may order that the child be accompanied by a relative or a friend for the purpose of providing emotional support.

They are relevant considerations, but I would suggest that it does remove any exercise of discretion by the court and has a presumption in it that every case and every child is the same. Even where a child actively wishes to give evidence without special measures there is no choice, and I would suggest that that patronises children and assumes them to be under a disability by reason of age alone. That is really contrary to the intentions of the Evidence Act in so far as it relates to vulnerable witnesses but more particularly the Bill which is seeking to remove those sorts of connotations of disability on the ground of age. In that sense, without exploring in greater detail the technical issues which are raised by the amendments and the wide scope which they have, I would hope that would be a satisfactory rejection of the rationale put forward by the Hon. Mr Gilfillan to support his argument for this amendment.

I will now talk a little about the current practice because, if one is going to make such a radical change as that referred to in the amendments proposed by the Hon. Mr Gilfillan, one has to have good reason for it. My information is that there is not a good reason for it. There is discretion. The Hon. Mr Sumner introduced the amendments to the Evidence Act which finally allowed vulnerable witnesses to be protected and put the discretion in the hands of the court, and we supported it. We had some disagreement about who should or should not be vulnerable witnesses, but the spirit of the amendments at that stage was supported. It does give discretion.

For example, it is the policy of the DPP that, for child sexual abuse cases, applications are made for the use of screens or closed-circuit television for every child or parent who asks for them. Children are first taken to the court to ascertain how they feel about their impending court appearance and then given the option of asking for screens or closed-circuit television. The DPP policy is to endeavour to ensure that whatever the witness needs in order to assist the court to arrive at the truth is provided, including use of screens or closed-circuit television, the support of a witness assistance officer or other types of support. Having the opportunity to make a choice is a recognised process of empowerment for children and their families who have already been through a traumatic experience. In some cases, child witnesses do feel empowered by being able to stand up in court, face the accused and the tell the court what happened to them. I suggest it would be unfair to deprive these children of that experience because of a blanket rule.

I come back to the point I was making earlier, that what we are trying to do with the Government's Bill is to remove aspects of discrimination on the ground of age, and I reiterate what I have said earlier—that these amendments in themselves, where they apply a blanket rule, could be seen as discriminatory or patronising. For example, a confident 15 year old witness would be treated in the same way as a very nervous six year old merely because they are both under 16 years of age. The thrust of the Government's Bill is to try to ensure that child witnesses are treated on the basis of their competency, not merely their chronological age.

Information I have received also from the DPP's office is that, generally speaking, applications to use measures of one sort or another to assist vulnerable witnesses—and not necessarily closed-circuit television because we have to remember that there are one-way screens available as well—are very commonly made in child abuse cases but rarely made in other cases involving children such as civil actions for damages, criminal charges against children and so on.

I am told that the applications that are made in relation to child witnesses are usually granted, that very few of them are opposed by the defence. However, it is fair to say that, generally, applications to use screens are more common than applications for closed-circuit television. It is the practice of the Director of Public Prosecutions always to inform vulnerable witnesses, not just those who are children but

other vulnerable witnesses to be called for the prosecution, of their right to apply to use special measures.

Generally, they are the reasons for the Government opposing the amendments of the Hon. Mr Gilfillan. We believe that they will lead to more restriction rather than to more flexibility and in themselves are patronising and against the spirit that we are seeking to enshrine in this legislation through the enactment of our Bill.

The Hon. IAN GILFILLAN: I understand from what the Attorney indicated that we will not put this amendment to the vote this afternoon. However, I still think it is important that we progress the debate a little further and I want to respond to some of the implications that he made. It is ironic that my amendment to the juries legislation, which we have just debated, was defeated by the argument—although I must say that it was only a minor argument—for uniformity.

It is of interest to note that New South Wales, Western Australia and the ACT, although not having measures identical to my amendment, have gone a long way towards it. The Australian Law Reform Commission does not view this move as being a dramatic reform: it is recommended by it, but not as a revolutionary introduction into the legal system. The Attorney talks about it being patronising. That is unfortunate because this is a measure that is put in place to minimise the damage to vulnerable children in particular—and whether the argument is that the child is under 16, 12 or six to me is semantics. In fact, the very word 'patronising' is totally inappropriate.

The amendment quite clearly specifics that if the court is satisfied that the child desires and is able to give evidence in the courtroom then that is exactly what that child will do. So the idea that this is a compulsion and patronising imposition on a child is a nonsense argument. He quotes at some length the advice of the Director of Public Prosecutions. In answer to one of my earlier questions when we were looking at the background for this the Attorney-General indicated that the DPP had no data upon which we could base an awareness or some sort of assessment of how frequently the current legislation, the availability of closed-circuit television and one-way mirrors were taken up. It is interesting that that material is apparently now available to the Attorney: he quotes from it.

The Hon. K.T. Griffin interjecting:

The Hon. IAN GILFILLAN: The data from the Director of Public Prosecutions.

The Hon. K.T. Griffin interjecting:

The Hon. IAN GILFILLAN: Well, you were making inferences from that as if there were substantial indications of use of the procedure. I think that if one goes back and looks into it, how does the DPP make those claims if there is no data? Is he guessing?

The Hon. K.T. Griffin: We talk to each other.

The Hon. IAN GILFILLAN: Well, in that case there could have been some talk back—

The Hon. K.T. Griffin interjecting:

The Hon. IAN GILFILLAN: No, you missed the point. I asked a specific question in this place to try to get—

The Hon. K.T. Griffin interjecting:

The Hon. IAN GILFILLAN: The answer—and I will not say 'misleading' because that may be patronising and offensive—was not satisfactory and led us to believe that there was nothing useful in the awareness of the current procedure to implement this debate. As has been the tradition for many years in discussions largely involving the Attorney-General and me—unfortunately he is not listening to that, either, but he will ask in a minute and accuse me of being patronising—and because of the expectation that this debate will be approached in a constructive way, I look forward to further discussion, because the indication I have is that we will be seeking leave to report progress and revisiting the matter before voting on it.

I would like the Chamber to have available to it an objective assessment of the situation and data, but that is not a debating point. I am not here to just win a point on the vigour of the argument or the energy of the debate. I am here to promote and implement, as best I can, legislation which will have the best long-term effect. With due respect, the argument about the resources needed is a petty position to take and, to me, is incidental if in fact the reform is effective in protecting children and implementing a better way for the justice system to work. I think that the presumption is that if my amendment is in place it will be a constantly used procedure right across the board. The flexibility is still there in my amendment, and it can be argued that it will not be necessary because in certain cases it will not be accepted by the Youth Court.

The final comment I would like to make is that, in the concept of the broad sweep of reform, we are on a roll of reform regarding the consideration of children and the exposure of vulnerable witnesses—and not only children but we ought to embrace all that in the courts system so that there is more understanding and care for their situation. It may well be that closed-circuit television plays a much bigger role and is used to get evidence from witnesses who are in regional and remote areas where it would be an imposition for someone to be drawn into the physical presence in a court.

In Victoria some years ago it was being used to take evidence—I recall the Chairman being with me on a select committee, and the Chairman is not listening either, unfortunately—and was recognised as being a very useful tool for remandees to give evidence without having to be taken physically to the court. It has been used. It is a useful adjunct to using technology in our courts system. If we are a progressive, reforming State not only should we look to protect the children in this particular case but look at the scope of where new technologies can facilitate the working of the justice system, and I believe this is a very important one.

The Hon. CAROLYN PICKLES: The Opposition has listened carefully to the arguments of both sides, and we understand that the Attorney will be reporting progress. We will canvass the comments of both sides. It is an important issue and we will come back with a deliberative decision about it.

The Hon. K.T. GRIFFIN: I appreciate what the Leader of the Opposition indicates. I do intend to seek to report progress in a moment. I want to add a couple of observations to those I have previously made in response to the Hon. Mr Gilfillan's contribution. There is nothing I said that contradicts what I was saying earlier in relation to data. We have a project going up—the Inter-Agency Child Abuse Assessment Program—which is designed to try to overcome a number of these difficulties in dealing with children in the criminal justice system who are victims of abuse, whether sexual or otherwise. Some data is being collected, but that has not been completed. The comment that I made in relation to the Director of Public Prosecutions is information of a general nature derived from that office's practice and experience. There is no conflict between an assertion that there is no data and saying that these are, generally speaking, the observations of the DPP.

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: The honourable member does not understand how the Office of the Director of Public Prosecutions operates. It is a relatively small office. I do not know how many people are employed, but they talk to each other. It is not as though these applications are being made half a dozen times a day. They are not made on such a regular basis. According to the way in which the office operates, it is able to indicate a general view.

The honourable member made an observation about the resources issues being petty. I am prepared to wear the criticism he makes, but I did not think it was appropriate not at least to make reference to it. If he looks at *Hansard*, he will see that I do not place a great deal of emphasis upon that, but it is an issue that needs to be addressed.

If you are going to put a closed-circuit television system in every courtroom in South Australia, there are 25 magistrates courts, including: Para Districts, Elizabeth, Port Adelaide, Holden Hill and Christies Beach. Is that what the honourable member wants? I do not place a great deal of emphasis on it, but it is a factor that must be considered.

The more important issue is what it will do in the interests of the child. I have indicated that I do not believe that it advances the interests of the child one iota. In fact, I suggest that there are circumstances where it will be detrimental to the child. The proposed amendments provide that an order must not be made for closed-circuit television. There is nothing in that which gives the court a discretion in circumstances where, for example, it may not be necessary in the interests of justice.

The honourable member also makes reference to the Australian Law Reform Commission. I will give some consideration to that matter. The commission's views are not necessarily gospel that we need to follow blindly but they are relevant considerations that we must take into account.

Regarding the practice in other States, I will bring back further information about that, but I am informed that in the other States there is no blanket provision, and that the measure is used for cases involving violent crime (including sexual offences and the like) but not in every case where a child is a witness. In the other States, there are qualifications to the presumption, including that the presumption is subject to the interests of justice and is not a rigid compulsion. Now that the honourable member has raised that matter, I will obtain more details and bring back that information at a later stage.

Progress reported; Committee to sit again.

CRIMINAL LAW CONSOLIDATION (INTOXICATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 December. Page 447.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. Apart from appeasing those in the Liberal Party who supported the shadow Attorney-General's private member's Bill on self-induced intoxication, this Bill seeks to make two changes. First, the Bill seeks to restate the common law that a person cannot take alcohol or drugs with the intention of obtaining Dutch courage to commit a crime. Secondly, a defendant who wishes to plead self-induced intoxication to raise a doubt as to whether he or she intended to commit a criminal act must now have his counsel ask the judge to instruct the jury on the question.

In some recent cases the defence has not led evidence to support the drunk's defence but has relied on prosecution evidence that might suggest that the defendant 'had a few'. Defence counsel makes no reference to the drunk's defence and the defendant is found guilty and then appeals to the Court of Criminal Appeal on the basis of the possibility that the drunk's defence ought to have been left to the jury on the prosecution's evidence. This amendment will stop this lawyers' game.

The Opposition notes that the shadow Attorney-General in another place has raised this issue and introduced a Bill which is listed in private members' business. However, we are pleased that the Attorney has moved on this. It probably does not go as far as the Opposition prefers, but it supports the Bill.

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

WINGFIELD WASTE DEPOT CLOSURE BILL

The Hon. K.T. Griffin, for **the Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning),** obtained leave and introduced a Bill for an Act to provide for the closure of the waste depot conducted by the Corporation of the City of Adelaide at Wingfield. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

Waste Management is a major issue for every Australian Government, and is a priority for every nation in the OECD. Worldwide there are intense and growing pressures to minimise the amount of waste going to landfill, and then manage landfills better in terms of their environmental and social impacts.

On 21 January 1999, the South Australian Government released a long term integrated strategy for the minimisation and management of Adelaide's waste. Overall the strategy provides for improved kerbside collection systems, resource recovery and recycling initiatives, better environmental practices in terms of landfill operations, more competitive landfill pricing and enhanced assessment of future waste operations.

To realise the Strategy, and community expectations, the Government has determined that it is necessary to legislate to close the Wingfield Landfill by the year 2004—and that no more landfills will be approved in this near northern area of Adelaide in the future.

Currently Wingfield receives about 500 000 tonnes of putrescible (essentially rotting waste) and solid waste each year amounting to 75 per cent of such waste generated in the inner northern area of Adelaide each year. In recent years the site has also taken a further 400 000 tonnes of clean fill per annum.

The Wingfield landfill has been owned and operated by the Adelaide City Council since 1956. It was established well before all of us have become more conscious about environmental issues and modern waste management practices.

- Its base is not lined with an impermeable material and its surface is unprotected leading to concerns about leachate, litter, seagulls, odour and dust.
- Essentially, the reception of rubbish continues to be indiscriminate because resource recovery at the site is in its infancy.
- Meanwhile, the ultimate height and slope configuration of the site is of particular concern to the Port Adelaide Enfield Council in terms of local residents' issues, industry development opportunities, environmental matters and general amenity.

Overriding all of these operational issues is the fact that as long as the Wingfield style of operation continues, supported by a price structure per tonne to dump waste that is the cheapest of any mainland capital, it will not be economically or environmentally possible to establish a waste minimisation and management system

for Adelaide that reflects the needs of a modern city entering the next millennium.

Planning Approval and Environmental Authorisation

Today the Adelaide City Council operates the Wingfield Waste Operation pursuant to a licence issued in March 1997 by the Environmental Protection Authority (Authority) under the *Environment Protection Act 1993*.

The licence expires on 31 March 1999.

A condition of the current licence is that the waste operations do not exceed a height of 15 metres Australian Height Datum (AHD).

In mid 1995 the Authority was involved in negotiations with the Adelaide City Council to determine an acceptable closure plan for the Wingfield waste site.

The following year the Authority opposed an application by the Adelaide City Council for a height extension from 15 metres to 40 metres.

Meanwhile the then Port Adelaide Council sought to limit the height of the operation to a maximum of 15 metres AHD through the imposition of a condition attached to the Planning Approval. Aggrieved by this action the Adelaide City Council sought judicial review. In October 1998 Bleby J held that this 15 metres AHD height condition was invalid and that, in any event, the relevant planning authority was no longer the Council. The Port Adelaide Enfield Council has now sought leave to appeal this decision to the Full Court of the Supreme Court.

Meanwhile, the Adelaide City Council lodged an application with the Environmental Protection Authority on 29 January 1999 for renewal of its licence to operate at Wingfield. It did so just two months before its operating licence expired on 31 March this year and with the knowledge that the Government now supported a legislated closure regime.

The Adelaide City Council's latest application seeks to vary the existing height condition of 15 metres AHD to allow for a maximum height of 35.2 metres AHD—with a final settled height of 32 metres AHD, the latter anticipated to be reached in around five years after closure in 2004.

These latest height limits represent a welcome reduction on the 40 metres AHD limit sought by the Adelaide City Council. But contrary to the Council's very recent public relations exercise which claimed the Council sought closure of the Wingfield site by 2004 at a height of 32 metres AHD—the application to the Environmental Protection Authority actually seeks closure in 2004 at a height of 35.2 AHD metres settling to 32 metres by 2009.

The Government acknowledges the revenue generating concerns of the Wingfield operation to the future viability of the Council—and so to this time has not taken issue with the material published by the Council in recent weeks about its real plans for closure of the Wingfield Waste site.

Closure of Wingfield

The Bill is designed to provide certainty to the Adelaide City Council, the Port Adelaide Enfield Council, all other Councils that use the site, the community and industry regarding the closure date and the final maximum post settlement height for the Wingfield landfill operations. This certainty will lead to an orderly and environmentally sound closure of operations at Wingfield. It removes the distinct possibility which we face now that the future of Wingfield is left to the Courts to resolve at some unknown date in the future. It also provides the lead times necessary to bring on stream in the near future new environmentally sound resource recovery and landfill operations that incorporate state of the art modern waste disposal technology.

The Bill sets out in fine detail all the steps that the operator (the Adelaide City Council) must undertake in terms of the preparation of a Landfill Environmental Management Plan, the responsibilities of the Environment Protection Authority in both assessing the Plan and reporting to the Minister—and then the ultimate responsibility of the Minister in adopting, amending or refusing the Plan.

Defined periods of public consultation are provided, which in many instances are more generous than already provided under the *Environment Protection Act 1993*. The Bill provides that there are no appeal rights against the Minister's decision.

Height limits at closure

As noted earlier, the Adelaide City Council is now advocating that the height for closure should be 35.2 metres AHD, with a final settled height of 32 metres AHD. They advance this proposition on the basis that the four percent slope so created is the most suitable for the promotion of stormwater management and leachate control.

However, on advice from the Environmental Protection Agency (EPA) that the Government has accepted, the Bill sets a maximum post closure settlement height of 27 metres AHD. The EPA has advised that closure at this level can be achieved in an environmentally sound manner that enables acceptable long term storm water control. It can be expected that a post settlement height of 27 metres AHD will generate less risk of leachate that a post settlement height of 32 metres AHD.

The Agency has also advised the Government that the Adelaide City Council's engineering consultant has assumed a growth rate of 8.75 per cent in the amount of waste received to calibrate the model used and hence settlement calculations. The Agency does not consider that this growth rate is sustainable nor supported by the Agency's waste figures. This growth rate also seems at variance with the Adelaide City Council's commitment to resource recovery and recycling. Importantly, if the assumed annual growth rate of waste received is not achieved by the Council, then their preferred closure landform of 35.2 metres AHD will not be achieved by 31 December 2004. Presumably, the Council would then need to seek an extension of time from the Authority. Closure at a lower height will mean that closure by 31 December 2004 could more realistically be achieved.

Meanwhile the Port Adelaide Enfield Council has resolved to support 22 metres AHD maximum closure height as its preferred option—but it is prepared to accept a height up to 27 metres AHD. The Environment Protection Agency has advised the Government that closure at 22 metres would require the design of a double liner system and drainage layer, to minimise the potential for infiltration of stormwater. This is likely to be a very expensive option and would require significant long term maintenance of the drainage layer as a result of settlement. Alternatively, additional earthworks could be carried out to reduce the external angle slopes currently between 2 metres to 15 metres and development of a multi peaks profile. Again this would be a very expensive exercise—and it would require significant post closure maintenance. In addition the Government considers that closure at 22 metres AHD would not allow the Adelaide City Council a reasonable time frame to fund the implementation of a closure plan and post closure management.

The Port Adelaide Enfield Council is seeking the establishment of a Trust fund entitled 'Wingfield Landfill Environment Rehabilitation Trust Fund' with the Adelaide City Council paying minimum levy of $4 per tonne (CPI adjusted) for the remaining life of the Wingfield depot. This levy would be in addition to the $4.52 per tonne levy currently being paid by the Adelaide City Council as a waste levy under the Environment Protection Act. The Government does not support this proposal. Powers relating to financial assurances by the operator already exist in section 51 of the *Environment Protection Act 1993*. That Act provides that in certain specified circumstances a performance bond may be applied through the mechanism of a licence issued by the Environment Protection Authority, in particular where the Authority is satisfied that such action is justified in view of the degree of risk of environmental harm.

In conclusion, legislation has not been the Government's preferred position in seeking to resolve the future orderly and environmentally sound closure of Wingfield. However, given the significantly different and long held positions of the City Council and the Port Adelaide Enfield Council, legislation is now considered necessary to ensure that the fate of Wingfield is not left to the Courts to resolve following expensive and lengthy legal arguments between warring Councils. The Government, industry, local government and the community at large, requires much greater levels of certainty in order to minimise and manage future waste demands much better than we have done so to date.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Objects of this Act

This clause sets out the objects of the Bill.

Clause 4: Interpretation

This clause defines terms used in the Bill.

Clause 5: Application of this Act

This clause provides that the new Act will apply despite any other Act or law to the contrary.

Clause 6: Use of Wingfield as a waste depot

This clause limits the use of the Adelaide City Council's waste depot at Wingfield. It cannot be used for the purposes of dumping and disposing of waste after the end of the year 2000 unless a landfill environmental management plan has been prepared by the Council and has been adopted by the Minister. Even then it cannot be used

beyond 2004 and must not exceed a height of 27 metres after subsidence.

Clause 7: Preparation of the plan

This clause provides for the preparation of a Landfill Environmental Management Plan in accordance with guidelines prepared by the Environment Protection Authority. Subclause (5) requires the height of the solid waste landfill at Wingfield to be restricted to a height that after subsidence does not exceed 27 metres.

Clause 8: Public consultation

This clause provides for public consultation on the plan. Members of the public are to be invited to make written submissions and the Authority will hold a public meeting to answer questions in relation to the proposed plan.

Clause 9: Submissions etc. to be given to operator

This clause requires the operator to prepare a written response to comments made by the City of Port Adelaide Enfield and the Minister on the plan and to submissions made by members of the public.

Clause 10: Amendment of plan before Authority's report to Minister

This clause enables the plan to be amended before the Environment Protection Authority prepares its report on the plan.

Clause 11: Authority to advise Minister on adoption of plan

This clause requires the Environment Protection Authority to advise the Minister by means of a report prepared by the Authority on the plan.

Clause 12: Adoption etc. of plan by Minister

This clause enables the Minister to adopt the plan with or without amendment or to refuse to adopt it. The Minister must prepare a report setting out his or her reasons for the decision. A copy of the report must be laid before both Houses of Parliament.

Clause 13: Amendment of plan after adoption

This clause gives the Minister the ability to amend the plan after it has been adopted to correct an error or to take advantage of new data or technological advancements.

Clause 14: Recovery of costs by the Minister

This clause enables the Minister to recover reasonable costs from the Adelaide City Council incurred by the Minister in the administration of this Act.

Clause 15: No appeal against decision of Minister or Authority

This clause provides that there is no appeal against decisions of the Minister or the Environment Protection Authority in the administration of the Act.

Clause 16: Regulations

This clause provides for the making of regulations.

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

CRIMINAL LAW CONSOLIDATION (CONTAMINATION OF GOODS) AMENDMENT BILL

Returned from the House of Assembly with amendments.

MANUFACTURING INDUSTRIES PROTECTION ACT REPEAL BILL

Received from the House of Assembly and read a first time.

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.

Under the Competition Principles Agreement of April 1995, the Government is committed to review and, where appropriate, reform legislation which restricts competition.

During the early stages of the process, the *Manufacturing Industries Protection Act 1937* was identified as legislation which had the potential to restrict competition.

The process of legislative reform and review has led to this Act being redundant. In particular, the provisions of the *Environment Protection Act 1993* and the *Occupational Health, Safety and Welfare Act 1986*, incorporate standards of design and operation for plant and machinery in industry. These provisions encompass the purposes of the *Manufacturing Industries Protection Act 1937*.

The *Manufacturing Industries Protection Act Repeal Bill 1999* makes certain provisions for the protection of the proprietors of factories. It provides that the proprietor and occupier of a factory in any area may seek that the Governor declare by proclamation that an area is a 'protected area'. In essence, such a proclamation would mean that no person would be entitled to a civil remedy on the basis of any noise or vibration arising from any factory within that area. There are no regulations under this Act and no proclamations have been made. For this reason, no consultation has occurred beyond government during the process of review.

The occupational health and safety legislation of this State ensures that industry is facilitated in the conduct of work, and that the health, safety and welfare of workers and the public, are protected, not only in terms of noise and vibration, but also in terms of dust, fumes, etc. and other emissions, including eg effluent.

I commend the Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of the measure.

Clause 3: Repeal

This clause repeals the *Manufacturing Industries Protection Act 1937*.

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

RACING (DEDUCTION FROM TOTALIZATOR BETS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

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 Racing Act currently allows for TAB and South Australian racing clubs to deduct commissions from bets, at rates set out in the Racing Regulations.

The commission rates for bets vary between State TABs and racing clubs. In an increasingly national and competitive market, TAB and South Australian racing clubs are finding the regulatory process of varying commission rates to be one of many restrictions of the *Racing Act* which hinder their ability to compete effectively, for the benefit of the South Australian Government and the South Australian Racing Industry.

This amendment will also position the TAB and South Australian racing clubs so that they can react quickly and effectively to market sensitivities.

The Racing (Deduction from Totalizator Bets) Amendment Bill attempts to address these restrictions and lost opportunities by providing TAB and the South Australian Racing Clubs with the flexibility to vary their commission rates, subject to approval by persons or bodies appointed by Regulation, with a view to maximising profit returns.

Explanation of Clauses

Clause 1: Short title

Clause 1 is formal.

Clause 2: Amendment of s. 68—Deduction of percentage from totalizator money

Clause 2 amends section 68 of the principal Act. The amendment will allow the regulations to appoint the TAB and the racing clubs as the persons to fix the amounts to be deducted from bets accepted by them. The amendment made by paragraph *(d)* is consequential on an amendment made previously to section 82A(4)*(a)*(i) of the Act.

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

SHEARERS ACCOMMODATION ACT REPEAL BILL

Received from the House of Assembly and read a first time.

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.

Under the Competition Principles Agreement of April 1995, the Government is committed to review and, where appropriate, reform legislation which restricts competition.

During the early stages of the process, the *Shearers Accommodation Act 1975* was identified as legislation which had the potential to restrict competition. In addition, the Act had been rendered redundant with the passage of more relevant legislation.

It has been a Government objective for some time to ensure that legislation appropriately addresses the needs of persons in occupations where accommodation, mess facilities, toilet facilities and such issues take on a particular meaning in the workplace and areas associated with it. This applies to a wide range of occupations, including shearers.

The Shearers Accommodation Regulations 1976 were revoked by the *Subordinate Legislation Act* in August 1996. In 1997, following a period of development in concert with industry, Workcover issued new 'Guidelines for Workplace Amenities and Accommodation' under the Occupational Health, Safety and Welfare Regulations. The Guidelines support the regulations by providing practical guidance for the provision of reasonable access for all employees to workplace amenities and, where necessary, accommodation.

Since 1995, extensive consultation on the development of the guidelines has occurred with the National Farmers Federation (SA Division), the Australian Workers Union, the Shearing Contractors Federation and Workcover. Consultations took place before and after the repeal of the regulations under the *Shearers Accommodation Act 1975*, recognising that the Act itself would be repealed after the Workcover Guidelines were introduced.

The provisions of the *Occupational Health, Safety and Welfare Act 1986* and Regulations, supported by the Guidelines for Workplace Amenities and Accommodation, mean that the *Shearers Accommodation Act 1975* is no longer necessary or appropriate.

I commend the Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of the measure.

Clause 3: Repeal

This clause repeals the *Shearers Accommodation Act 1975*.

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

PARLIAMENTARY SUPERANNUATION (ESTABLISHMENT OF FUND) AMENDMENT BILL

Received from the House of Assembly and read a first time.

STAMP DUTIES (MISCELLANEOUS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

COLLECTIONS FOR CHARITABLE PURPOSES (DEFINITION OF CHARITABLE PURPOSE) AMENDMENT BILL

Received from the House of Assembly and read a first time.

SECOND-HAND VEHICLE DEALERS (COMPENSATION FUND) AMENDMENT BILL

Received from the House of Assembly and read a first time.

LOTTERY AND GAMING (TRADE PROMOTION LOTTERY LICENCE FEES) AMENDMENT BILL

Returned from the House of Assembly without amendment.

ROAD TRAFFIC (PROOF OF ACCURACY OF DEVICES) AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 6.5 p.m. the Council adjourned until Tuesday 2 March at 2.15 p.m.